



**AGENDA
REGULAR MEETING
FREEPORT CITY COUNCIL
MONDAY, FEBRUARY 6, 2023 at 6:00 P.M.**

Mayor:

Brooks Bass

Council Members:

Jeff Pena
Jerry Cain
Mario Muraira

City Manager:

Timothy Kelty

THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, WILL MEET ON MONDAY, THE 6TH DAY OF FEBRUARY, 2023, AT 6:00 P.M., AT THE FREEPORT, POLICE DEPARTMENT, MUNICIPAL COURT ROOM, 430 NORTH BRAZOSPORT BOULEVARD FREEPORT TEXAS

This meeting will be live streamed via Facebook Live and may be accessed on the City of Freeport Facebook page: <https://www.facebook.com/freeporttexas>

THE MEETING IS BEING HELD FOR THE FOLLOWING PURPOSES:

CALL TO ORDER: *The Mayor will call the meeting to order, declare a quorum if present, and declare notices legally posted pursuant to Open Meetings Act.*

INVOCATION AND PLEDGE OF ALLEGIANCE: (Council Member)

CITIZENS' COMMENTS:

Members of the public are allowed to address the City Council at this time, and must include name and address. *Note*, specific factual information or a recitation of existing policy may be furnished in response to an inquiry made, but any deliberation, discussion, or decision with respect to any subject about which the inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting for which notice is provided in compliance with the Texas Open meetings Act unless said notice appears herein. The public is reminded that there is a (4) minute time limit as approved by City Council on June 21, 2010.

PRESENTATIONS/ANNOUNCEMENTS: Announcements by Mayor, City Council and/or Staff.

1. Presentation of the Freeport Police Department Annual Traffic Contact Report for 2022. **(Howell)**

CONSENT AGENDA:

Consent Agenda items are considered to be routine in nature and may be acted upon in one motion. Any item requiring additional discussion may be withdrawn from the Consent Agenda by the Mayor, Councilmember or City Manager, and acted upon separately.

2. Consideration and possible action on the approval of City Council meeting minutes from January 23, 2023. **(Wells)**
3. Consideration and possible action to amend the approved Contract for Election Services between the City of Freeport and the County Clerk of Brazoria County to now provide that the Presiding Judge and Alternate Presiding Judge shall be Jarvis Davis and Clarisa Molina, respectively. **(Wells)**

COUNCIL BUSINESS – REGULAR SESSION:

4. Consideration and possible action approving Ordinance No. 2023-2686 calling the General Election on May 6, 2023, for the election of council positions for Wards A and C. **(Kelty)**
5. Consideration on possible action approving Ordinance No. 2023-2687 calling the Charter Amendment Election. **(Kelty)**
6. Consideration and possible action approving Ordinance 2023-2688 calling a Special Election to authorize the City of Freeport to transfer its property interest in 15.153 acres to Brazosport Independent School District to allow the District to continue to use the 15.153 acres for softball and baseball purposes so the District can donate 30.9 acres to the City to develop in part for new recreational and park purposes. **(Kelty)**
7. Consideration and possible action approving Resolution No. 2023-2778 Reaffirming Ethics Ordinance No. 2019-2567. **(Kelty)**
8. Consideration and possible action on Amendment #1 to Freese and Nichols Task Authorization #17 for Sanitary Sewer Lift station 3, 4, & 14 Rehabilitation. **(Kelty)**
9. Consideration and possible action approving Task Authorization No. 22 with Freese & Nichols, for the Copper and Lead Project, Phase 1. **(Kelty)**
10. Consideration and possible action on Resolution No. 2023-2779, supporting State GLO Funding for Levee improvements. **(Kelty)**
11. Consideration and possible action approving Resolution No. 2023-2780 for vehicle and equipment repair maintenance policy. **(Ezell)**

WORK SESSION:

12. The City Council may deliberate and make inquiry into any item listed in the Work Session.

- A. Mayor Brooks Bass announcements and comments.
- B. Councilman Pena Ward A announcements and comments.
- C. Councilman Cain Ward B announcements and comments.
- D. Councilman Muraira Ward C announcements and comments.
- E. City Manager Tim Kelty announcements and comments.
- F. Updates on current infrastructure.
- G. Update on reports / concerns from Department heads.

CLOSED SESSION:

13. Executive Session regarding a.) (Deliberations about Real Property) East End, Property swap with ISD for OA Fleming property and River property used for High School ball diamonds. b.) (Consultation with Attorney) potential litigation: Vcolia Contract, Motel 6, Investigation of Boys and Girls Club c.) Economic Development Project "Bluebird"; in accordance with Texas Government Code Annotated, Chapter 551, Sections 551.071, 551.073 and 551.087.

COUNCIL BUSINESS – REGULAR SESSION:

14. Take any action resulting from Executive Session.

ADJOURNMENT:


15. Adjourn.

Items not necessarily discussed in the order they appear on the agenda. The Council at its discretion may take action on any or all of the items as listed. This notice is posted pursuant to the Texas Open Meeting Act. (Chapter 551, Government Code).

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

ACCESSIBILITY STATEMENT This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (979) 233-3526.

CERTIFICATE I certify the foregoing notice was posted in the official glass case at the rear door of the City Hall, with 24 hours a day public access, 200 West 2nd Street, Freeport Texas, before 6:00 p.m. in accordance with Open Meetings Act.


Betty Wells, City Secretary,
City of Freeport, Texas



City Council Agenda Item # 1

Title: Freeport Police Department's TCOLE Racial Profiling Report

Date: February 6, 2023

From: Chief Jennifer Howell

Staff Recommendation: None

Item Summary: Freeport Police Department's Annual Racial Profiling Data to be presented to the Freeport City Council.

Background Information: In 2001, during the 77th Legislative Session, it was added in the Texas Occupations Code, 1701.164, specifying that the Texas Commission On Law Enforcement (TCOLE) collect incident-based data in accordance with the Code of Criminal Procedure, Article 2.131 – 2.138. Chief Administrators of law enforcement agencies that meet the criteria must submit racial profiling reports to their governing body, as well as TCOLE.

Special Considerations: None

Financial Impact: None

Board or 3rd Party recommendation: None

Supporting Documentation: A report with information generated by Brazos Technology (our vendor for traffic citations). Statistical information from 2019-2022 for annual report comparisons. Graphs of 2019-2022 annual comparison, 2022 traffic contacts, and 2022 searches.



FREEPORT POLICE DEPARTMENT

430 N. Brazosport Blvd • Freeport, TX 77541 • 979.239.1211 • Fax
979.239.2075

*Danny Gillchrist
Captain*

*Jennifer Howell
Chief of Police*

*Corey Brinkman
Lieutenant*

TEXAS COMMISSION ON LAW ENFORCEMENT ANNUAL RACIAL PROFILING REPORT

I. LAW

This report is generated in compliance of the Texas Code of Criminal Procedure, Chapter 2, Article 2.131 – 2.138.

II. POLICY

The Freeport Police Department follows internal policy, 2.2 Bias Based Policing and Racial Profiling. This policy is recommended by the Texas Police Chief Association Best Practices Accreditation Program.

III. REPORTS – Information generated by Brazos Technology

2022 Texas TCOLE SB 1187 Racial Profiling Report Attached for review
2019-2022 Annual Statistical Report Comparison
Data Graphs

IV. CONCLUSION

The Freeport Police Department follows state laws and department policy. This report is to be submitted to the Texas Commission on Law Enforcement (TCOLE) annually to maintain compliance. The Freeport Police Department's software program generates the above listed reports from data that was entered as collected from traffic stops. The additional information is generated by the police department with information from the above listed reports, for comparison.



To Protect, Serve, Model Integrity and Demonstrate Professionalism

Freeport, TX PD

Jan 1, 2022 - Dec 31, 2022

Texas TCOLE SB1187 Racial Profiling Report (2022)

PLEASE NOTE: This report is based on the format provided by the Texas Commission on Law Enforcement (TCOLE), current as of Dec. 14, 2022.

01. Total Traffic Stops

4,005

4,005

02. Location of Stop

CITY STREET	91.26%	3,655
COUNTY ROAD	0.27%	11
PRIVATE PROPERTY OR OTHER	0.22%	9
STATE HIGHWAY	8.24%	330
Total	100.00%	4,005

03. Was Race Known Prior to Stop?

N	99.60%	3,989
Y	0.40%	16
Total	100.00%	4,005

04. Race or Ethnicity

ALASKA NATIVE/AMERICAN INDIAN	0.47%	19
ASIAN/PACIFIC ISLANDER	1.40%	56
BLACK	16.80%	673
HISPANIC/LATINO	36.05%	1,444
WHITE	45.27%	1,813
Total	100.00%	4,005

05. Gender

FEMALE	ALASKA NATIVE/AMERICAN INDIAN	0.34%	5
	ASIAN/PACIFIC ISLANDER	0.90%	13
	BLACK	15.37%	223
	HISPANIC/LATINO	32.80%	476

Freeport, TX PD

Jan 1, 2022 - Dec 31, 2022

Texas TCOLE SB1187 Racial Profiling Report (2022)

PLEASE NOTE: This report is based on the format provided by the Texas Commission on Law Enforcement (TCOLE), current as of Dec. 14, 2022.

05. Gender

FEMALE	WHITE	50.59%	734
		100.00%	1,451
MALE	ALASKA NATIVE/AMERICAN INDIAN	0.55%	14
	ASIAN/PACIFIC ISLANDER	1.68%	43
	BLACK	17.62%	450
	HISPANIC/LATINO	37.90%	968
	WHITE	42.25%	1,079
		100.00%	2,554
Total			4,005

06. Reason for Stop?

MOVING TRAFFIC VIOLATION	ALASKA NATIVE/AMERICAN INDIAN	0.63%	17
	ASIAN/PACIFIC ISLANDER	1.80%	49
	BLACK	16.75%	455
	HISPANIC/LATINO	36.99%	1,005
	WHITE	43.84%	1,191
		100.00%	2,717
PRE EXISTING KNOWLEDGE	BLACK	13.04%	3
	HISPANIC/LATINO	4.35%	1
	WHITE	82.61%	19
		100.00%	23
VEHICLE TRAFFIC VIOLATION	ALASKA NATIVE/AMERICAN INDIAN	0.16%	2
	ASIAN/PACIFIC ISLANDER	0.49%	6
	BLACK	16.87%	205
	HISPANIC/LATINO	34.16%	415
	WHITE	48.31%	587

Freeport, TX PD

Jan 1, 2022 - Dec 31, 2022

Texas TCOLE SB1187 Racial Profiling Report (2022)

PLEASE NOTE: This report is based on the format provided by the Texas Commission on Law Enforcement (TCOLE), current as of Dec. 14, 2022.

06. Reason for Stop?

		100.00%	1,215
VIOLATION OF LAW	ASIAN/PACIFIC ISLANDER	2.00%	1
	BLACK	20.00%	10
	HISPANIC/LATINO	46.00%	23
	WHITE	32.00%	16
		100.00%	50
Total			4,005

07. Was a Search Conducted?

N	ALASKA NATIVE/AMERICAN INDIAN	0.48%	19
	ASIAN/PACIFIC ISLANDER	1.39%	55
	BLACK	16.77%	662
	HISPANIC/LATINO	35.99%	1,421
	WHITE	45.36%	1,791
		100.00%	3,948
Y	ASIAN/PACIFIC ISLANDER	1.75%	1
	BLACK	19.30%	11
	HISPANIC/LATINO	40.35%	23
	WHITE	38.60%	22
		100.00%	57
Total			4,005

08. Reason for Search?

CONSENT	BLACK	16.67%	1
	HISPANIC/LATINO	16.67%	1
	WHITE	66.67%	4
		100.00%	6

Freeport, TX PD

Jan 1, 2022 - Dec 31, 2022

Texas TCOLE SB1187 Racial Profiling Report (2022)

PLEASE NOTE: This report is based on the format provided by the Texas Commission on Law Enforcement (TCOLE), current as of Dec. 14, 2022.

08. Reason for Search?			
CONTRABAND IN PLAIN VIEW	HISPANIC/LATINO	100.00%	1
		100.00%	1
INCIDENT TO ARREST	HISPANIC/LATINO	80.00%	4
	WHITE	20.00%	1
		100.00%	5
INVENTORY	BLACK	23.08%	3
	HISPANIC/LATINO	53.85%	7
	WHITE	23.08%	3
		100.00%	13
NO SEARCH	ALASKA NATIVE/AMERICAN INDIAN	0.48%	19
	ASIAN/PACIFIC ISLANDER	1.39%	55
	BLACK	16.77%	662
	HISPANIC/LATINO	35.99%	1,421
	WHITE	45.36%	1,791
		100.00%	3,948
PROBABLE CAUSE	ASIAN/PACIFIC ISLANDER	3.12%	1
	BLACK	21.88%	7
	HISPANIC/LATINO	31.25%	10
	WHITE	43.75%	14
	100.00%	32	
Total			4,005

09. Was Contraband Discovered?

N	BLACK	13.04%	3
	HISPANIC/LATINO	52.17%	12
	WHITE	34.78%	8

Texas TCOLE SB1187 Racial Profiling Report (2022)

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09. Was Contraband Discovered?

		100.00%	23
Y	ASIAN/ PACIFIC ISLANDER	2.94%	1
	BLACK	23.53%	8
	HISPANIC/ LATINO	32.35%	11
	WHITE	41.18%	14
		100.00%	34
Total			57

10. Description of Contraband

ALCOHOL	HISPANIC/LATINO	100.00%	4
		100.00%	4
DRUGS	ASIAN/PACIFIC ISLANDER	3.70%	1
	BLACK	22.22%	6
	HISPANIC/LATINO	25.93%	7
	WHITE	48.15%	13
		100.00%	27
OTHER	BLACK	66.67%	2
	WHITE	33.33%	1
		100.00%	3
Total			34

11. Result of the Stop

CITATION	ALASKA NATIVE/AMERICAN INDIAN	0.33%	4
	ASIAN/PACIFIC ISLANDER	1.89%	23
	BLACK	17.05%	207
	HISPANIC/LATINO	39.79%	483

Texas TCOLE SB1187 Racial Profiling Report (2022)

PLEASE NOTE: This report is based on the format provided by the Texas Commission on Law Enforcement (TCOLE), current as of Dec. 14, 2022.

11. Result of the Stop

CITATION	WHITE	40.94%	497
		100.00%	1,214
CITATION AND ARREST	BLACK	17.86%	5
	HISPANIC/LATINO	28.57%	8
	WHITE	53.57%	15
		100.00%	28
VERBAL WARNING	HISPANIC/LATINO	50.00%	1
	WHITE	50.00%	1
		100.00%	2
WRITTEN WARNING	ALASKA NATIVE/AMERICAN INDIAN	0.55%	15
	ASIAN/PACIFIC ISLANDER	1.20%	33
	BLACK	16.74%	459
	HISPANIC/LATINO	34.32%	941
	WHITE	47.19%	1,294
		100.00%	2,742
WRITTEN WARNING AND ARREST	BLACK	10.53%	2
	HISPANIC/LATINO	57.89%	11
	WHITE	31.58%	6
		100.00%	19
Total			4,005

12. Arrest Based On

	WHITE	100.00%	1
		100.00%	1
OUTSTANDING WARRANT	BLACK	25.00%	3
	HISPANIC/LATINO	25.00%	3
	WHITE	50.00%	6

Freeport, TX PD

Jan 1, 2022 - Dec 31, 2022

Texas TCOLE SB1187 Racial Profiling Report (2022)

PLEASE NOTE: This report is based on the format provided by the Texas Commission on Law Enforcement (TCOLE), current as of Dec. 14, 2022.

12. Arrest Based On

		100.00%	12
VIOLATION OF PENAL CODE	BLACK	14.29%	2
	HISPANIC/LATINO	57.14%	8
	WHITE	28.57%	4
		100.00%	14
VIOLATION OF TRAFFIC LAW	BLACK	10.00%	2
	HISPANIC/LATINO	40.00%	8
	WHITE	50.00%	10
		100.00%	20
Total			47

13. Was Physical Force Used?

N	ALASKA NATIVE/AMERICAN INDIAN	0.48%	19
	ASIAN/PACIFIC ISLANDER	1.38%	55
	BLACK	16.80%	672
	HISPANIC/LATINO	36.05%	1,442
	WHITE	45.30%	1,812
		100.00%	4,000
Y	ASIAN/PACIFIC ISLANDER	20.00%	1
	BLACK	20.00%	1
	HISPANIC/LATINO	40.00%	2
	WHITE	20.00%	1
		100.00%	5
Total			4,005

Was Arrest Due to Contraband Found?

N	BLACK	17.50%	7
	HISPANIC/LATINO	42.50%	17

Freeport, TX PD

Jan 1, 2022 - Dec 31, 2022

Texas TCOLE SB1187 Racial Profiling Report (2022)

PLEASE NOTE: This report is based on the format provided by the Texas Commission on Law Enforcement (TCOLE), current as of Dec. 14, 2022.

Was Arrest Due to Contraband Found?			
N	WHITE	40.00%	16
		100.00%	40
Y	HISPANIC/LATINO	26.57%	2
	WHITE	71.43%	5
		100.00%	7
Total			47

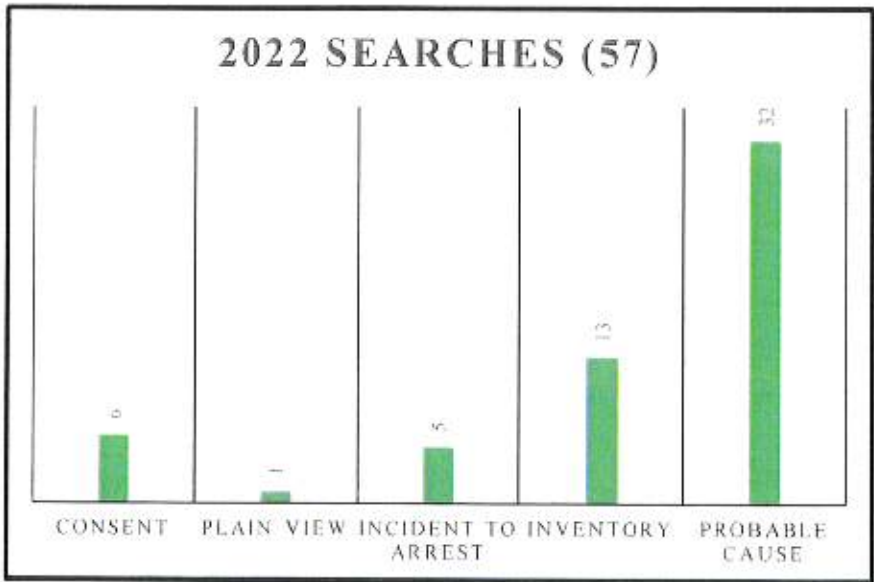
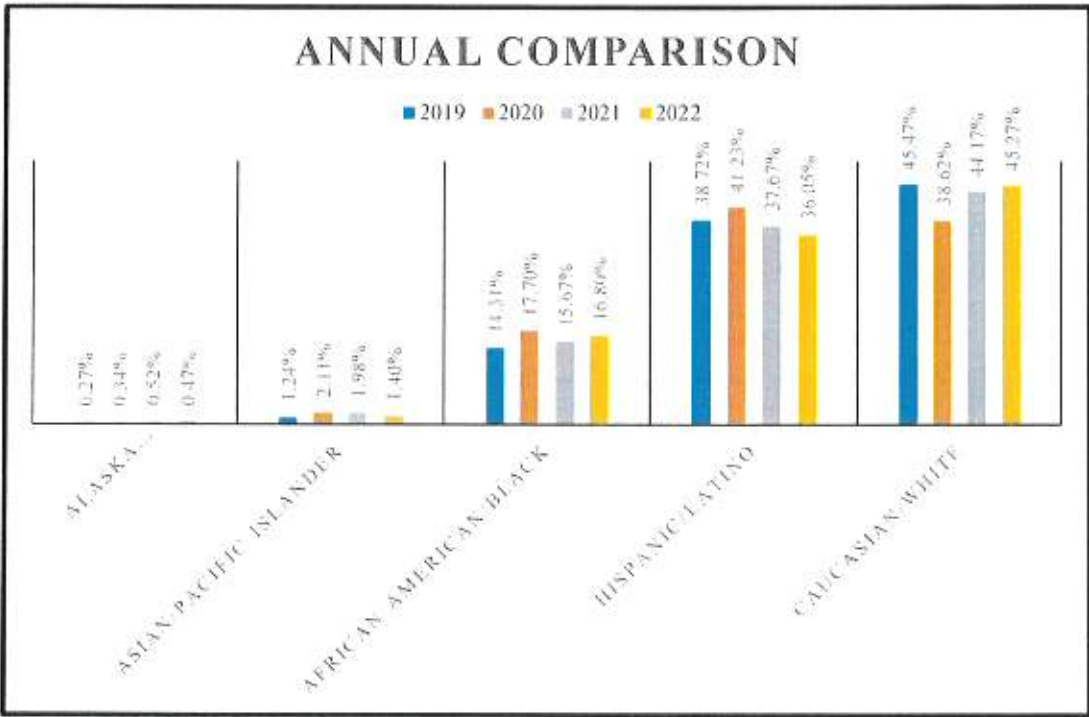
Annual Statistical Report Comparison

2019		
Race/Ethnicity	Total Contacts	Percentage %
Alaska Native/American Indian	14	0.27%
Asian/Pacific Islander	64	1.24%
African American/Black	740	14.31%
Hispanic/Latino	2002	38.72%
Caucasian/White	2351	45.47%
TOTAL	5171	100.00%

2020		
Race/Ethnicity	Total Contacts	Percentage %
Alaska Native/American Indian	9	0.34%
Asian/Pacific Islander	55	2.11%
African American/Black	462	17.70%
Hispanic/Latino	1076	41.23%
Caucasian/White	1008	38.62%
TOTAL	2610	100.00%

2021		
Race/Ethnicity	Total Contacts	Percentage %
Alaska Native/American Indian	19	0.52%
Asian/Pacific Islander	72	1.98%
African American/Black	571	15.67%
Hispanic/Latino	1373	37.67%
Caucasian/White	1610	44.17%
TOTAL	3645	100.00%

2022		
Race/Ethnicity	Total Contacts	Percentage %
Alaska Native/American Indian	19	0.47%
Asian/Pacific Islander	56	1.40%
African American/Black	673	16.80%
Hispanic/Latino	1444	36.05%
Caucasian/White	1813	45.27%
TOTAL	4005	100.00%



State of Texas

County of Brazoria

City of Freeport

BE IT REMEMBERED, that the City Council of Freeport, Texas met on Monday, January 23, 2023 at 6:00 p.m. at the Freeport Police Department, Municipal Court Room, 430 North Brazosport Boulevard, Freeport Texas for the purpose of considering the following agenda items:

City Council: Mayor Brooks Bass Absent
Councilman Jeff Pena
Councilman Jerry Cain
Councilman Mario Muraira

Staff: Tim Kelty, City Manager
Lance Petty, Assistant City Manager/PWD
Betty Wells, City Secretary
Clarisa Molina, Administrative Assistant
Tommy Ramsey, Interim City Attorney
Cathy Ezell, Finance Director
Toby Cohen, IT Manager
Donna Fisher, Human Resource Director
Kacey Roman, Building Official
Chris Motley, Fire Chief
Hope Bullman, Code Officer
Patti Veazey, Code Officer
Robert Johnson, EDC Director
Alex Cruz, Patrol Officer City of Freeport
April Tietjen, Freeport Police Department Dispatch

Visitors:

George Matamoros	George H. Matamoros
Sam Reyna	Karla Clark
Pam Dancy	David McGinty
Shonda Marshall	Desiree Pearson
Tom Pearson	Julie Solis
Manning Rollerson	Kent Holle (Facts)
Con McCleester	Melanie Oldham
Ron Bachman	Eduardo Irigoyen (US Corp)
Jack Bullman	Diane McCleester

Call to order.

Mayor Pro Tem Cain, called the meeting to order at 6:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

Invocation and Pledge was led by City Manager, Tim Kelty.

CITIZENS' COMMENTS:

Karla Clark 411 Sailfish, she said it was a beautiful day for the MLK Parade. Ms. Clark spoke of issues of the tie in on the Surfside water line, and mowing on the sideways. She spoke of the issue on Caldwell Street, she said there is a water leak and it is causing the road to cave in. Ms. Clark asked about the retention pond behind the new hotel, where is this going to drain? She said she would like this information given to her by Mr. Kelty or whomever can answer. She spoke of the investigations, she said they need to be released. She spoke of trying to get in touch with City Hall, and Mr. Kelty not always responding to emails. She spoke of the mistakes in the minutes.

Pam Dancy 313 S. Front Street, she said the minutes need to be corrected. She said Mr. Reyna made a comment regarding the need to terminate the City Manager, she said this needs to be added. She spoke of the duplication of visitor names in the minutes. She said the information on the Election Contract is wrong. She said she would like to see council take citizens' concerns and acknowledge them at the next meeting.

Manning Rollerson 126 West 6, spoke of the drainage pipes that are just sitting, and work not being done. He spoke of 1800 feet of pipe being, \$220,000, from the county for the infrastructure. He spoke of the Urban Grants. He spoke of the super fund site and the testing of the groundwater. He asked what is DOW and the City doing to correct this issue. He said the city needs to address these issues.

PRESENTATIONS/ANNOUNCEMENTS: Announcements by Mayor, City Council and/or Staff.

Presentation by the US Corp of Engineers updating Council and the Public of the Freeport Project.

Eduardo Irigoyen presented to council the update of the Freeport and Vicinity Hurricane Flood Protection Project. He announced an Open House will be held on Thursday February 2, 2023 from 4 PM-& PM, at the Lake Jackson Civic Center.

Manning Rollerson spoke of his Federal Case.

Melanie Oldham spoke of this project. She said she would like to know we are protected from the 100-year flood.

Presentation of employee of the month for the month of December 2022.

Mr. Kelty presented the employee of the month to Alex Cruz, and April Tietjen, for the month of December 2022. Patti Veazey was also recognized for her outstanding work for the City of Freeport.

CONSENT AGENDA

Consideration and possible action on the approval of City Council meeting minutes from January 9, 2023, and the Special Meeting from January 9, 2023.

Consideration and possible action approving the date change for the 2nd meeting in February from Monday February 20, to Tuesday February 21, 2023 for the President's Day Holiday.

Consideration and possible action approving ratification for the approved Replat of God's Grace Subdivision Comprised of Lots 1,2,3,4 & 5 Formerly a Called 14.7385 Acre Tract Being a Part of Tracts 36,37,38, 39 & 40 of the San Bernard Syndicate Subdivision N and being that same tract a Recorded in County Clerk's File No. 2022-019935 of The Brazoria County Official Records in the Thomas B. Bell Survey Abstract 41 City of Freeport (ETJ) Brazoria County, Texas.

Consideration and possible action approving the ratification of the approved Replat of Seaside Estates of Follett's Island TX a 10 Lot Subdivision of 25.979 Acres Composed of Tracts 5 through 11 of the unrecorded Subdivision of 70.15 acres conveyed to Nelms Development LLC in County Clerk's File 2021061111 of the Brazoria County Official Records situated in the Stephen F. Austin Peninsula League Abstract 29 City of Freeport Brazoria County, Texas.

Mr. Kelty asked that the change to the minutes in Mr. Reyna's comment "Tim Kelty should be removed", he said this needs to be added to the minutes.

Ms. Dancy spoke of the contract that was approved in the minutes, she said this needs to be removed. Mr. Kelty explained the minutes are correct, and the contract will come back on another council meeting to be amended.

A motion was made by Councilman Muraira to approve the consent agenda with the correction "Mr. Kelty needs to be removed" to the meeting minutes for January 9, 2023. Seconded by Councilman Pena, with all voting "Aye" 3-0 vote council unanimously approved the Consent Agenda.

COUNCIL REGULAR AGENDA

Consideration and possible action approving an amendment to the agreement between Brazoria County and the City of Freeport to receive funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; Entitlement Grant CFDA 14,218; Grant Number B-21-UC48-005.

City Manager Tim Kelty, presented to council an amendment to the agreement between Brazoria County and the City of Freeport to receive funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; Entitlement Grant CFDA 14,218; Grant Number B-21-UC48-005. He said this is the project for Ave G and II sanitary sewer that received CDBG Funding through the County. Our Grant Administrator requested this amendment, because we are approaching the end of the grant period. He said the amendment is a for a requested time extension. This will extend 60 days. Being extended until February 28, 2023.

A motion was made by Councilman Muraira to approve the amendment to the agreement between Brazoria County and the City of Freeport to receive funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; Entitlement Grant CFDA 14,218; Grant Number B-21-UC48-005. Seconded by Councilman Pena. With discussion that followed.

There was discussion with the remainder of the funds, and if they could be spent. Ms. Ezell said this was a CBDG Grant fund, she said we were close to using all of the funds, she thinks \$10,000-\$20,000, but we could not change the scope of the work. It had to be in that area where we did the surveys.

Mr. Rollerson asked about the Urban Grant, he said this is for housing. Mr. Rollerson asked if these were just being used for the sewer lines? Councilman Pena asked if this project is just residential? Mr. Kelty said yes, it is just for residential.

Ms. Clark asked the date of completion? She was told February 28, 2023.

Mayor Pro Tem, Cain called the motion for a vote, with a present voting "Aye" 3-0, council unanimously approved an amendment to the agreement between Brazoria County and the City of Freeport to receive funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; Entitlement Grant CFDA 14,218; Grant Number B-21-UC48-005.

Consideration and possible action approving the Joint Election Agreement with Brazoria County for the General Election on May 6, 2023.

City Manager Tim Kelty presented to council the Joint Election Agreement with Brazoria County for the General Election on May 6, 2023. He said the cost will be about \$15,000 he said his will also include the Charter Election. Mr. Kelty said if there is a runoff, it will be an additional \$15,000.

A motion was made by Councilman Muraira to approve the Joint Election Agreement with Brazoria County for the General Election on May 6, 2023. Seconded by Councilman Pena. With discussion that followed.

Councilman Pena asked the dates of when candidate must turn in applications to be a candidate in the General Election. Mr. Kelty told him, January 18 – February 17, 2023.

Mayor Pro Tem, Cain, called the motion for a vote, with all present voting "Aye" 3-0, council unanimously approved Joint Election Agreement with Brazoria County for the General Election on May 6, 2023.

WORK SESSION:

Councilman Pena spoke of the MLK Parade. He said that he wishes Mayor Bass a speedy recovery. He spoke on the EOM, he said lifesaving is above and beyond, and maybe we designate another "above and beyond" when they save someone's life. Councilman Pena thanked the PD for the quick response for the violence that broke out between the patrons at the downtown pool hall. Councilman Pena said he also wants to ask the City Manager to release the report by Zech and Navarro on the Boys and Girls Club. And he asked that the original report from Mr. Brimage be returned to City Hall. Councilman Pena said he wants to speak on the meeting minutes, and clarify the comments made by Cathy Ezell at the previous meeting, that he and Councilman Muraira continue to pressure staff to do things, in violation of the Charter. Councilman Pena said at no time has he violated City Charter. He said he consistently "CC's" the City Manager, City Attorney and the rest of council, and always responded accordingly. Councilman Pena said the wanted to thank the Parks Department for getting the lights that were out in downtown Municipal Park replaced. He spoke of the reflectors that are planned in the downtown on Park Avenue and Broad. He said these will help drivers be aware of the stop signs at night, and protect the pedestrians in the downtown area. Councilman Pena said thank you for the repairs on the pumps that service the splash pad. He asked for updates for the sewer issue on 2nd Street affecting Port Café? Mr. Petty said

before this meeting, it had not been repaired. The contractor for Centerpoint bored into the sewer line and caused these problems. The cost of these repairs will be going back to Centerpoint.

Councilman Muraira asked if barricades can be put up on North Ave N and Yellowstone at the dead-end. He said he had a complaint that people are driving in the yard of the house on the corner. Councilman Muraira said the Mr. Vega wanted to thank Mr. Petty for getting rid of the bees. He said that he has been driving around and has seen the sidewalks that have been replaced. He spoke of the one on Dixie by the school. He said he has noticed a lot more kids outside. Councilman Muraira asked Mr. Kelty if we had an update on the lighting plan from Centerpoint? Mr. Kelty we are still waiting on Centerpoint. Councilman Muraira spoke of the EDC, Planning and Zoning, and the Mainstreet Workshop at 6 PM on Thursday. He asked if council can attend, Mr. Kelty said yes. Mr. Kelty said the meeting is for discussion on the potential first floor residential development in downtown, and we will be talking about signage regulations. Councilman Muraira said that he thinks the Boys and Girls Club report needs to be released, he said what he saw was a small packet and to him, it's a difference of opinion between Zech/Duncan.

Ms. Dancy said she hopes Mayor Bass gets better. Ms. Dancy asked about the meeting for Thursday night. Mr. Kelty said no action will be taken at this workshop.

Mr. Rollerson asked for a patrol officer at Yellowstone's four way stop.

Mayor Pro Tem, Cain congratulated the MILK Parade, he said it was one of the biggest parades in Freeport. He spoke of the work at FIS, on the football field, he said there have been stands added. He said with that, we need lighting on Dixie Dr. He said it is terrible. We need to reach out to the ISD as well, and see if they are willing to put some on their side as well. Councilman Cain said we are experiencing a lot of water main breaks. He asked if this is from the freeze, a lack of maintenance, or bad luck. Mr. Petty said it is contractors hitting mains, boring lines, and the age of the system.

City Manager Tim Kelty, said this Thursday or Friday we will be submitting an application to TXDOT, for about \$5.7 million-dollar grant, and it requires no match. Mr. Kelty said this will be for sidewalks along Gulf Boulevard and along Brazosport Boulevard and other linkages. This includes curb ramps and I believe a crossing signal. This will include connectivity, this will also include some bike routes. He said if this is awarded, it will probably be about a two-year project.

Update on reports / concerns from Department heads

CLOSED SESSION:

Open Session was closed at 7:12 P.M.

No action was taken from Executive Session.

Executive Session was closed at 8:40 P.M and the meeting was called back into regular session.

Adjourn

Mayor Pro Tem Cain, adjourned the meeting at 8:40 P.M.

Mayor, Brooks Bass
City of Freeport, Texas

City Secretary, Betty Wells
City of Freeport, Texas



City Council Agenda Item #3

Title: Consideration and possible action approving an Amendment to the Joint Election Agreement and Contract for Election Services with Brazoria County and the City of Freeport for the Special Election February 25th.

Date: February 6, 2023

From: Betty Wells, City Secretary

Staff Recommendation:

Staff recommends approving the Amendment to the Joint Election Agreement and Contract for Election Services with Brazoria County.

Item Summary:

This amendment to the agreement with Brazoria County changes the Presiding Judge from Betty Wells, to Jarvis Davis, and assigns Clarisa Molina as the Alternate Presiding Judge. The change was recommended by the County on January 10th after the agreement was approved by City Council at the January 9th City Council meeting. The City will hold a Special Election on February 25th. This agreement allows for Brazoria County to manage our election for the race in the upcoming special election for Ward D, including generating electronic ballots and absentee ballots, operating polling places. The Freeport Library will continue as the location for early and election-day voting.

Background Information:

The City of Freeport traditionally partnered with Brazoria County for elections, and this is a re-adoption of previous agreements, changing the dates and races.

Special Considerations

Financial Impact:

Board or 3rd Party recommendation: County Election Board recommends this change.

Supporting Documentation:

Contract

CONTRACT FOR ELECTION SERVICES

THIS CONTRACT (this "Agreement") is made effective as of the Effective Date (as defined below), by and between the CITY OF FREEPORT, TEXAS, acting by and through its governing body, hereinafter referred to as "Political Subdivision," and County Clerk of Brazoria County, Texas, hereinafter referred to as "County," and by authority of Section 31.092(a), Texas Election Code, and Chapter 791, Texas Local Government Code, for the conduct and supervision of the Political Subdivision's election to be held on FEBRUARY 25, 2023. Political Subdivision and County may be referred to individually as a "Party" and collectively as "the Parties."

This contract is made by and between the CITY OF FREEPORT, TEXAS, acting by and through its governing body, hereinafter referred to as "Political Subdivision," and the County Election Officer of Brazoria County, defined by statute as the County Clerk through the authority set forth in Texas Election Code §§31.091 and 31.092. The purpose of this contract is for the performance of election services as authorized by statute. This contract shall serve as the general contract for each election for which the Political Subdivision requests the assistance of the County Clerk. Provisions specific to each particular election will be included as an attachment to the original contract. Political Subdivision and County Clerk may be referred to individually as "Party" or collectively as "Parties."

RECITALS

The County Clerk has care, custody, and control over the electronic voting system, the Hart InterCivic Verity Voting System (Version 2.5.1461), which has been duly approved by the Secretary of State pursuant to Texas Election Code Chapter 122, as amended, and is compliant with the accessibility requirements set forth by Texas Election Code Section 61.012. Political Subdivision desires to use the electronic voting system and to compensate the County Clerk for such use and to share in certain other expenses connected with joint elections in accordance with the applicable provisions of Chapters 31 and 271 of the Texas Election Code.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and benefits to the parties, IT IS AGREED as follows:

I. ADMINISTRATION

The Parties agree to hold a "Special Local Election" in accordance with Chapter 271 of the Texas Election Code and this Agreement. The County Clerk shall coordinate, supervise, and handle all aspects of administering the Local Election as provided in this Agreement. Political Subdivision agrees to pay County Clerk for equipment, supplies, services, and administrative costs as provided in this Agreement. The County Clerk shall serve as the administrator for the Local Election; however, the Political Subdivision shall remain responsible for the decisions and actions of its officers necessary for the lawful conduct of its election. The County Clerk shall provide advisory services in connection with decisions to be made and actions to be taken by the officers of the Political Subdivision.

It is understood that other political subdivisions may wish to participate in the use of the electronic voting system and polling places, and it is agreed that the County Clerk may enter into

other joint election agreements and contracts for election services for those purposes on terms and conditions set forth in the Election Code. Political Subdivision agrees that County Clerk may enter into joint election agreements with other political subdivisions that may have territory located partially or wholly within the boundaries of Political Subdivision, and, in such case, all parties sharing common territory shall share a joint ballot on the electronic voting system at the applicable polling places. In such cases, total costs shall be divided among the participants.

At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap.

II. LEGAL DOCUMENTS

Political Subdivision shall be responsible for the preparation, adoption, and publication of all required election orders, resolutions, notices, and any other pertinent documents required by the Texas Election Code or Political Subdivision's governing body, charter, or ordinances. With reference to publications, the County Clerk will publish the "Notice of Test of Automatic Tabulating Equipment" and the "Notice of Election." If a Political Subdivision is holding any type of Special Election, the Political Subdivision may have to publish their own "Notice of Election" in order to meet additional requirements. Please advise the County Clerk's Elections Office if the Political Subdivision must publish a separate notice so the Political Subdivision's notice is not included in the Notice published by the County Clerk.

Preparation of the necessary materials for notices and the official ballot shall be the responsibility of each participating authority, including translation to languages other than English. Each participating authority shall provide a copy of their respective election orders and notices to the County Clerk's Election Department.

III. STATUTORY COMPLIANCE

Political subdivisions shall follow all applicable State and Federal laws related to elections, including, but not limited to, Section 52.072 of the Election Code, which states in part, "A proposition shall be printed on the ballot in the form of a single statement."

Failure to do so may prohibit the political subdivision's participation in a Joint Election.

IV. VOTING LOCATIONS

The County Clerk's Election Office shall select and arrange for the use of and payment for all election day voting locations. Voting locations will be, whenever possible, the usual voting location for each election precinct in elections conducted by the county. The proposed voting locations will be provided once the final candidate filing deadline has been met and will be listed as Attachment "A". In the event a voting location is not available, the Elections Department will arrange for use of an alternate location with the approval of the Political Subdivision. The Elections Department shall notify the Political Subdivision of any changes from the locations listed as Attachment "A".

If polling places for the joint election in Attachment "A" are different from the polling place(s) used by Political Subdivision in its most recent election, Political Subdivision agrees to post a notice no later than the date of the election described in Attachment "A", at the entrance to any previous polling places in the jurisdiction, stating that the polling location has changed, and stating the political subdivision's polling place name(s) and address(s) in effect for the election described in Attachment "A". Any changes in voting location from those that were used in the most recent COUNTYWIDE JOINT election will be posted by the County Clerk's Election Office.

V. ELECTION JUDGES, CLERKS, AND OTHER ELECTION PERSONNEL

The Brazoria County Commissioners Court shall be responsible for the appointment of the presiding judge and alternate judge for each polling location in accordance with Chapter 32 of the Texas Election Code. In the event an emergency appointment is necessary, appointment shall be made in accordance with Election Code §32.007, which authorizes the presiding officer of the Brazoria County Commissioners Court to make an emergency appointment. Should that officer not be available, the County Clerk's office shall make emergency appointments of election officials. Upon request by the County Clerk, Political Subdivision agrees to assist in recruiting polling place officials who are bilingual (fluent in both English and Spanish).

The County's Elections Department shall notify all election judges of the eligibility requirements of Subchapter C of Chapter 32 of the Texas Election Code, and will take the necessary steps to ensure that all election judges appointed for the Joint Election are eligible to serve.

The County Clerk shall arrange for the training and compensation of all election judges and clerks. The Elections Department shall arrange for the date, time, and place for the presiding election judge to pick up their election supplies. Each presiding election judge will be sent a letter from the Elections Department notifying him of his appointment, the time and location of training and distribution of election supplies, and the number of election clerks that the presiding judge may appoint.

Each election judge will receive compensation at an hourly rate of \$14.00. Each election clerk will receive compensation at an hourly rate of \$12.00. The election judge will receive an additional sum of \$25.00 for picking up the election supplies prior to Election Day and for returning the supplies and equipment to the central counting station after the polls close. All judges and clerks who attend training will be compensated at an hourly rate of \$8.00 as compensation for same.

It is agreed by all Parties that at all times and for all purposes hereunder, all election judges, clerks, and all other personnel involved in this election are temporary part-time employees subject only to those benefits available to such employees.

VI. PREPARATION OF SUPPLIES AND VOTING EQUIPMENT

The County Clerk Elections Department shall arrange for all election supplies and voting equipment including, but not limited to, official ballots, sample ballots, voter registration lists, and all forms, signs and other materials used by the election judges at the voting locations. At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating parties shall share a mutual ballot in those precincts where jurisdictions overlap. However, in no instance shall a voter be permitted to receive a ballot containing an office or proposition stating a measure on which the voter is ineligible to vote. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap. The County Clerk Elections Department shall provide the necessary voter registration information, instructions, and other information needed to enable the election judges in the voting locations that have more than one ballot style to conduct a proper election. If special maps are needed for a particular Political Subdivision, the County Clerk Election Department will order the maps and pass that charge on to that particular Political Subdivision.

Political Subdivision shall furnish the County Clerk a list of candidates and/or propositions showing the order and the exact manner in which the candidate names and/or proposition(s) are to appear on the official ballot (including titles and text in each language in which the authority's ballot is to be printed). THE POLITICAL SUBDIVISION SHALL ALSO PROVIDE A COPY OF EACH CANDIDATE'S APPLICATION TO THE COUNTY CLERK ELECTIONS OFFICE. This list shall be delivered to the County Clerk Elections Department as soon as possible after ballot positions have been determined by each of the participating authorities. Each participating authority shall be responsible for proofreading and approving the ballot insofar as it pertains to that authority's candidates and/or propositions. If any error or changes are discovered after the Logic and Accuracy test has been conducted and ballots prepared then the Political Subdivision will be responsible for all cost.

VII. EARLY VOTING

The Parties agree to conduct joint early voting and to appoint the County Clerk as the Early Voting Clerk in accordance with Sections 31.097 and 271.006 of the Texas Election Code. Political Subdivision agrees to appoint the County Clerk's permanent county employees as deputy early voting clerks. The Parties further agree that each Early Voting Location will have an "Officer in Charge" who will receive compensation at an hourly rate of \$14.00. The clerks at each location will receive compensation at an hourly rate of \$12.00. Early Voting by personal appearance will be held at the locations, dates, and times listed in Attachment "B" of this document. Any qualified voter of the Joint Election may vote early by personal appearance at any one of the joint early voting locations.

As Early Voting Clerk, the County Clerk shall receive applications for early voting ballots to be voted by mail in accordance with Chapter 86 of the Texas Election Code. Any requests for early voting ballots to be voted by mail received by the Political Subdivision shall be forwarded immediately by fax or courier to the Elections Department for processing.

The County Clerk Elections Department shall, upon request, provide the Political Subdivision a copy of the early voting report on a daily basis and a cumulative final early voting report following the election.

VIII. EARLY VOTING BALLOT BOARD

The County Clerk shall appoint an Early Voting Ballot Board (EVBB) to process early voting results from the Joint Election. The Presiding Judge, with the assistance of the County Clerk Elections Department, shall appoint two or more additional members to constitute the EVBB. The County Clerk Elections Department shall determine the number of EVBB members required to efficiently process the early voting ballots.

IX. CENTRAL COUNTING STATION AND ELECTION RETURNS

The County shall be responsible for establishing and operating the central counting station to receive and tabulate the voted ballots in accordance with the provisions of the Texas Election Code and of this agreement.

The participating authorities hereby, in accordance with Section 127.002, 127.003, and 127.005 of the Texas Election Code, appoint the following central counting station officials:

Counting Station Manager:	Lisa Mujica
Alternate Counting Station Manager:	Brandy Pena
Tabulation Supervisor:	Susan Cunningham
Alternate Tabulation Supervisor:	Johnathan Escamilla
Presiding Judge:	Jarvis Davis
Alternate Presiding Judge:	Clarisa Molina

The County Clerk Elections Department will prepare the unofficial canvass reports after all precincts have been counted, and will deliver a copy of the unofficial canvass to the Political Subdivision as soon as possible after all returns have been tabulated. All participating authorities shall be responsible for the official canvass of their respective elections.

The County Clerk Elections Department shall be responsible for conducting the post-election manual recount required by Section 127.201 of the Texas Election Code unless a waiver is granted by the Secretary of State. Notification and copies of the recount, if waiver is denied, will be provided to each participating authority and the Secretary of State's Office.

The County Clerk Elections Department shall submit all Cities' precinct by precinct returns to the Texas Secretary of State's Office electronically.

The County Clerk Elections Department shall post all election night results to County website on election night. <http://www.Brazoriacountyclerktx.gov>.

X. ELECTION EXPENSES AND ALLOCATION OF COSTS

The Parties agrees to pay the full costs of administering the Special Local Election. Allocation of costs, unless specifically stated otherwise, is mutually agreed. ~~to be shared. The County participates in "Vote Centers," therefor all political subdivisions can vote at any location.~~

It is agreed that the normal rental rate charged for the County's voting equipment used on election day shall be calculated ~~per polling locations and among the participants utilizing each polling location.~~ (See "Exhibit 1" for rental rates.) Total cost will be calculated, ~~and then multiplied by the Political Subdivisions percentage number of registered voters or with the minimum of \$1500.00, for those with lesser amount,~~ additional cost associated will be itemized and billed.

Costs for Early Voting by Personal Appearance will also be charge with the same formula as Election Day. ~~Those political subdivisions with the percentage of registered voters less than amount equal to \$1500.00 charged will be a minimum amount of \$1500.00.~~

Political Subdivision contracting for a runoff shall be responsible for all associated costs.

XI. WITHDRAWAL FROM CONTRACT DUE TO CANCELLATION OF ELECTION

Political Subdivision may withdraw from this agreement and the Joint Election should it cancel its election in accordance with Sections 2.051 - 2.053 of the Texas Election Code, or should it be later ruled that the election is not needed. Political Subdivision is fully liable for any expenses incurred by County Clerk on behalf of the Political Subdivision. Any monies deposited with the county by the withdrawing authority shall be refunded, minus the aforementioned expenses.

XII. RECORDS OF THE ELECTION

The County Clerk is hereby appointed general custodian of the voted ballots and all records of the Joint Election as authorized by Section 271.010 of the Texas Election Code.

Access to the election records shall be available to each participating authority, as well as to the public, in accordance with applicable provisions of the Texas Election Code and the Texas Public Information Act. The election records shall be stored at the offices of the County Clerk or at an alternate facility used for storage of county records. The County Clerk Elections Department shall ensure that the records are maintained in an orderly manner so that the records are clearly identifiable and retrievable.

Records of the election shall be retained and disposed of in accordance with the provisions of Section 66.058 of the Texas Election Code. If records of the election are involved in any pending election contest, investigation, litigation, or open records request, the County Clerk shall maintain the records until final resolution or until final judgment, whichever is applicable. It is the responsibility of each participating authority to bring to the attention of the County Clerk any notice of pending election contest, investigation, litigation or open records request which may be filed with the participating authority.

XIII. RECOUNTS

A recount may be obtained as provided by Title 13 of the Texas Election Code. Political Subdivision agrees that any recount shall take place at the offices of the County Clerk and that the County Clerk shall serve as Recount Supervisor and the Political Subdivision's official or employee who performs the duties of a secretary under the Texas Election Code shall serve as Recount Coordinator.

The County Clerk Elections Department agrees to provide advisory services to the Political Subdivision as necessary to conduct a proper recount and cost of the recount depends on the size of the election and number of precincts to be recounted.

XIV. MISCELLANEOUS PROVISIONS

1. It is understood that to the extent space is available, that other districts and political subdivisions may wish to participate in the use of the election equipment and voting places; it is agreed that the County Clerk may contract with such other districts or political subdivisions for such purposes, and that in such event, there may be an adjustment of the pro-rata share to be paid to the County by the participating authorities.
2. The County Clerk shall file copies of this document with the County Treasurer and the County Auditor in accordance with Section 31.099 of the Texas Election Code.
3. In the event that legal action is filed contesting the Political Subdivision's election under Title 14 of the Texas Election Code, Political Subdivision shall choose and provide, at its own expense, legal counsel for the County, the County Clerk, and additional election personnel as necessary.
4. Nothing in this contract prevents any party from taking appropriate legal action against any other party and/or other election personnel for a breach of this contract or a violation of the Texas Election Code; however, any action taken is subject to any immunity provided by statute or common law to governmental entities. For purposes of this contract, the County Clerk's office is acting as a governmental entity covered by any immunity available to Brazoria County.
5. The parties agree that under the Constitution and laws of the State of Texas, neither Brazoria County nor Political Subdivision can enter into an agreement whereby either party agrees to indemnify or hold harmless another party; therefore, all references of any kind, if any, to indemnifying or holding or saving harmless for any reason are hereby deleted.
6. This agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Brazoria County, Texas.
7. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement

shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

8. All parties shall comply with all applicable laws, ordinances, and codes of the State of Texas, all local governments, and any other entities with local jurisdiction.
9. The waiver by any party of a breach of any provision of this agreement shall not operate as or be construed as a waiver of any subsequent breach.
10. Any amendments of this agreement shall be of no effect unless in writing and signed by all parties hereto.
11. **Authorization of Agreement.** This Agreement has been approved and authorized by the governing body of the Political Subdivision.
12. **Purpose, Terms, Rights, and Duties of the Parties.** The purpose, terms, rights, and duties of the Parties shall be as set forth in this Agreement.
13. **Payments from Current Revenues.** Each Party paying for the performance of governmental functions or services must make those payments from current revenues available to that paying Party.
14. **Fair Compensation.** The Parties acknowledge and agree that each of the payments contemplated by this Agreement fairly compensate the performing Party.
15. **Termination.** At any time and for any reason, either Party may terminate this Agreement by providing thirty (30) days' written notice of termination to the other Party.
16. **Funding.** The Parties understand and acknowledge that the funding of this Agreement is contained in each Party's annual budget and is subject to the approval of each Party in each fiscal year. The Parties further agree that should the governing body of any Party fail to approve a budget that includes sufficient funds for the continuation of this Agreement, or should the governing body of any Party fail to certify funds for any reason, then and upon the occurrence of such event, this Agreement shall automatically terminate as to that Party and that Party shall then have no further obligation to the other Party. When the funds budgeted or certified during any fiscal year by a Party to discharge its obligations under this Agreement are expended, the other Party's ***sole and exclusive remedy*** shall be to terminate this Agreement.
17. **No Joint Enterprise.** The Agreement is not intended to, and shall not be construed to, create any joint enterprise between or among the Parties.
18. **Public Information.** This Agreement is public information. To the extent, if any, that any provision of this Agreement is in conflict with Texas Government Code Chapter 552, et seq., as amended (the "Texas Public Information Act"), such provision shall be void and have no force or effect.

19. **No Third-Party Beneficiaries.** This Agreement is entered solely by and between, and may be enforced only by and among the Parties. Except as set forth herein, this Agreement shall not be deemed to create any rights in, or obligations to, any third parties.
20. **No Personal Liability.** Nothing in this Agreement shall be construed as creating any personal liability on the part of any employee, officer, or agent of any Party to this Agreement.
21. Nothing in this Agreement requires that either the Political Subdivision or County incur debt, assess or collect funds, or create a sinking fund.
22. **Sovereign Immunity Acknowledged and Retained.** **THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY ANY PARTY OF ANY IMMUNITY FROM SUIT OR LIABILITY THAT A PARTY MAY HAVE BY OPERATION OF LAW. THE CITY AND THE COUNTY RETAIN ALL GOVERNMENTAL IMMUNITIES.**

XV. COST ESTIMATES AND DEPOSIT OF FUNDS

It is estimated that the Political Subdivision's obligation under the terms of this agreement shall be DETERMINED AFTER THE ELECTION. Political Subdivision agrees to pay to County a deposit of \$2,500.00. This deposit shall be paid to County within 10 business days after the final candidate filing deadline. The final candidate filing deadline is December 27, 2022. Therefore, Deposit is due by January 9, 2023. The exact amount of the Political Subdivision's obligation under the terms of this Agreement shall be calculated after the February 25, 2023, election; and if the amount of the Political Subdivision's obligation exceeds the amount deposited, the Political Subdivision shall pay to County the balance **due within thirty (30) days after receipt of the final invoice from the County's Election Department**. However, if the amount of the Political Subdivision's obligation is less than the amount deposited, County shall refund to the Political Subdivision the excess amount paid within thirty (30) days after final costs are calculated.

IN TESTIMONY HEREOF, this agreement, its multiple originals all of equal force, has been executed on behalf of the parties.

(1) On the _____ day of _____, 2023 been executed on behalf of the County Clerk by the County Clerk pursuant to the Texas Election Code;

(2) On the _____ day of _____, 2023 been executed on behalf of the Political Subdivision by its Mayor or authorized representative, pursuant to an action of the Political Subdivision.

BRAZORIA COUNTY, COUNTY CLERK by

Joyce Hudman, County Clerk

ATTEST:

CITY OF FREEPORT, TEXAS

_____ By _____
Presiding Officer or Authorized Representative
CITY OF FREEPORT



City Council Agenda Item # 4

Title Consideration and possible action to adopt an Ordinance calling the General Election for May 6, 2023 for the election of council positions for Wards A and C.

Date: February 6, 2023

From: Tim Kelty, City Manager

Staff Recommendation:

Staff recommends approval of this ordinance.

Item Summary:

This ordinance calls the election for Mayor and Council Person for Wards A and C, to be held on May 6, 2023, and establishes polling places and times for voting.

Background Information:

This is a required action in accordance with state election law.

Special Considerations: The Election will be run by the County under a contract approved at the last meeting.

Financial Impact: No additional cost will be incurred over and above the county contract.

Board or 3rd Party recommendation: None

Supporting Documentation: Ordinance and Notice of Election

ORDINANCE NO. 2023-2686

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; CALLING A GENERAL ELECTION FOR THE FIRST SATURDAY IN MAY, 2023, BEING MAY 6, 2023, FOR AN ELECTION BY WARDS FOR POSITIONS A AND C ON THE CITY COUNCIL OF SAID CITY; PROVIDING FOR ONE (1) POLLING PLACE AND DESIGNATING THE LOCATION THEREOF; ESTABLISHING THE QUALIFICATIONS FOR CANDIDATES FOR THE OFFICES TO BE VOTED UPON; PROVIDING FOR APPLICATIONS FOR CANDIDATES AND SPECIFYING A FILING DEADLINE AND THE DATE WHEN FILING MAY BEGIN; PROVIDING FOR THE QUALIFICATION OF ELECTORS; APPOINTING THE OFFICERS OF SAID ELECTION AND DESIGNATING THE NUMBER OF CLERKS TO ASSIST IN CONDUCTING SAID ELECTION AND THE COMPENSATION TO BE PAID THE ELECTION JUDGE AND CLERKS; PROVIDING FOR EARLY VOTING; PROVIDING FOR RATIFICATION AND CONFIRMATION BY THE MAYOR OF SAID CITY OF THE ACTION TAKEN BY THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, Section 3.01 of the City Charter provides that members of the City Council shall be elected by wards, that Positions A and C on City Council, which represent Wards A and C, respectively, shall be filled by an election to be held on the first Saturday in May every three years at which only persons residing in Wards A and C are eligible to become candidates for election to Council Positions A and C, respectively, and at which only voters residing in Wards A and C are eligible to vote for or against the candidates seeking election to City Council Positions A and C, respectively.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS:

SECTION ONE - Election for Wards A and C Called.

Pursuant to said Section 3.01, the Mayor and City Council hereby order and ordain, respectively, that an election required to be held in Wards A and C for Council Position A and C, now held by JEFF PENA and MARIO MURAIRA, respectively, be held on the first Saturday in May of 2023, being May 6, 2023, between the hours of 7:00 o'clock a.m. and 7:00 o'clock p.m., each such election being for a term of three (3) years.

SECTION TWO - Municipal Polling Places

As provided in the Joint Election Agreement and Contract for Election Services between the City and the County Clerk of Brazoria County, Texas, which is incorporated herein by reference, for the purpose of the election called by this ordinance, there shall be one (1) municipal polling place, within the City of Freeport located at the Freeport Library, 410 Brazosport Blvd., Freeport, Brazoria County, Texas. On that day, voting will also be permitted at the following Polling Places:

East Annex (Old Walmart)	1524 E Mulberry, Angleton
Pct. 4 Building #2	121 N. 10th St., West Columbia
Brazoria Library	620 S. Brooks, Brazoria
Freeport Library	410 S. Brazosport, Freeport
Drainage District No. 4 Building	4813 W Broadway, Pearland
Sweeny Community Center	205 W. Ashley Wilson Rd., Sweeny
Danbury Community Center	6115 5th Street, Danbury
Clute Event Center	100 Parkview Dr., Clute
Jones Creek Comm House	7207 Stephen F. Austin Rd. Jones Creek
Lake Jackson Civic Center	333 Hwy 332 East, Lake Jackson
West Pearland Comm Center	2150 Countryplace Pkwy., Pearland
Pearland Recreation Center	4141 Bailey Rd., Pearland
Alvin Library	105 S Gordon, Alvin
Silverlake Recreation Center	2715 Southwyck Pkwy, Pearland
Tom Reid Library	3522 Liberty Dr, Pearland
West Pearland Library	11801 Shadow Creek Pkwy., Pearland
North Annex,	7313 Corporate Dr., Manvel

TENTATIVE, DEPENDING ON WHETHER THE CITY HAS AN ELECTION.

Liverpool City Hall	8901 CR 171, Liverpool
Oyster Creek City Hall	3210 FM 523, Oyster Creek
Bonney Annex Building,	19025 FM 521, Bonney
Hillcrest Village Municipal Bldg.	200 W. Timberlane, Alvin
Brookside Village Comm. Center	6243 Brookside Rd, Brookside Village
Surfside Beach City Hall	1304 Monument Dr., Surfside Beach

SECTION THREE - Candidates, Applications and Filing Fees.

(a) Everyone who has attained the age of eighteen (18) years, who has resided within the incorporated limits of the City for a period of six (6) months immediately preceding the last day on which a candidate's application for a place on the ballot could be delivered to the City Secretary, as hereinafter provided, shall be eligible to become a candidate for the office of Council Member of the City by filing a sworn application, as hereinafter provided.

(b) Everyone who has attained the age of eighteen (18) years, who has resided within the incorporated limits of the City for a period of six (6) months immediately preceding the last day on which a candidate's application for a place on the ballot could be delivered to the City Secretary, as hereinafter provided, and who:

- (1) resides in Ward A on the day such application is filed, shall be eligible to become a candidate for the office of Council Position A by filing a sworn application, as hereinafter provided; or,
- (2) resides in Ward C on the day such application is filed, shall be eligible to become a

candidate for the office of Council Position C by filing a sworn application, as hereinafter provided.

(c) Each candidate's application shall be in writing, contain the matters set out in Section 141.031, Texas Election Code and be filed with the City Secretary of the City.

(d) An application may not be filed earlier than the ninety-first (91st) day before the day hereinabove specified for said election and must be filed not later than 5:00 o'clock p.m. of the sixty-first (61) day preceding the day hereinabove specified for said election, being Wednesday, January 18, 2023, and Friday, February 17, 2023, respectively.

SECTION FOUR - Electors.

Every person eligible to vote under the provisions of Chapter 11 of Title 2 of the Texas Election Code who is a resident of the City and who is duly registered to vote in the county election precinct where and on the day on which he or she votes, shall be entitled to vote for or against the candidates for Council Position A, if such voter resides in Ward A, and for or against the candidates for Council Position C, if such voter resides in Ward C.

SECTION FIVE - Officers of Election and Compensation Thereof.

The Presiding Judge, Alternate Presiding Judge and clerks needed on the day of election for the election called by this ordinance, for the early ballot board and the central counting station shall be appointed, have the duties and be compensated as provided in the Joint Election Agreement and Contract for Election Services between the City and the County Clerk of Brazoria County, Texas, which is incorporated herein by reference.

SECTION SIX - Early Voting.

Early voting shall begin on April 24, 2023, and end on May 2, 2023, such early voting to be conducted by the County Clerk of Brazoria County, Texas, between the hours of 8:00 a.m. and 5:00

to be posted in accordance with Section 4.003(a)(2) of the Election Code for at least twenty-one (21) days prior to the date named above for the holding of said election on the bulletin board used for posting notices of meetings of the City Council.

(b) The City Secretary of the City is hereby authorized and directed to cause a copy of such notice, including a substantial copy of above and foregoing proposition, to be published in a newspaper in accordance with Section 4.003(a)(1) of the Election Code, such publication to be at least ten (10) days before but not more than thirty (30) days before the date named above for the holding of said general election.

SECTION NINE - Ratification and Confirmation by Mayor.

By signing this ordinance, the undersigned Mayor of the City hereby ratifies and confirms as his action all matters hereinabove recited which by law come within his jurisdiction.

SECTION TEN - Effective Date.

This ordinance shall be effective immediately upon its passage and approval.

READ, PASSED AND APPROVED this 6th day of February, 2023.

Brooks Bass, Mayor,
City of Freeport, Texas

ATTEST:

Betty Wells, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

David W. Olson, Interim City Attorney,
City of Freeport, Texas

NOTICE OF ANNUAL GENERAL ELECTION OF OFFICERS

TO: ALL PERSONS ENTITLED TO VOTE UNDER THE PROVISIONS OF CHAPTER 11 OF TITLE 2 OF THE TEXAS ELECTION CODE WHO ARE RESIDENTS OF THE CITY OF FREEPORT, TEXAS, AND ARE DULY REGISTERED TO VOTE IN THE PRECINCT WHERE AND ON THE DAY ON WHICH THEY VOTE,
GREETINGS:

I.

You will take notice that an annual general election will be held in and throughout the City of FREEPORT, Texas, ("the City") on the first Saturday in May, 2023, being the May 6, 2023, between the hours of 7:00 o'clock a.m. and 7:00 o'clock p.m., for the purpose of electing in single member districts A and C, for the purpose of electing for a three (3) year term each, persons to fill Council Position A now held by Jeff Pena, and Council Position C, now held by Mario Muraira, and for the purpose of presenting ballot measures for proposed changes to Freeport City Charter and the exchange of park property with Brazosport Independent School District to allow the City to develop new park and/or recreational facilities.

II.

To be eligible to vote in such election, a person must, on the date such person votes, be (1) eligible to vote under the provisions of Chapter 2 of Title 2 of the Texas Election Code, (2) a resident of the City, (3) duly registered to vote in the Brazoria County, Texas, election precinct which includes that portion of the corporate limits of the City where such voter resides and (4), in the case of persons voting in the election for Positions A or C on the City Council of the City, be a resident of Ward A or C of the City, respectively.

III.

For the purpose of this election, the Mayor and City Council of the City has established one (1) municipal polling place, within the City of Freeport located at the Freeport Library, 410 Brazosport Blvd., Freeport, Brazoria County, Texas. On that day, voting will also be permitted at

the following Polling Places:

East Annex (Old Walmart)	1524 E Mulberry, Angleton
Pct. 4 Building #2	121 N. 10 th St., West Columbia
Brazoria Library	620 S. Brooks, Brazoria
Freeport Library	410 S. Brazosport, Freeport
Drainage District No. 4 Building	4813 W Broadway, Pearland
Sweeny Community Center	205 W. Ashley Wilson Rd., Sweeny
Danbury Community Center	6115 5 th Street, Danbury
Clute Event Center	100 Parkview Dr., Clute
Jones Creek Comm House	7207 Stephen F. Austin Rd. Jones Creek
Lake Jackson Civic Center	333 Hwy 332 East, Lake Jackson
West Pearland Comm Center	2150 Countryplace Pkwy., Pearland
Pearland Recreation Center	4141 Bailey Rd., Pearland
Alvin Library	105 S Gordon, Alvin
Silverlake Recreation Center	2715 Southwyck Pkwy, Pearland
Tom Reid Library	3522 Liberty Dr, Pearland
West Pearland Library	11801 Shadow Creek Pkwy., Pearland
North Annex,	7313 Corporate Dr., Manvel
Richwood City Hall	1800 N Brazosport Blvd, Richwood

TENTATIVE, DEPENDING ON WHETHER THE CITY HAS AN ELECTION.

Liverpool City Hall	8901 CR 171, Liverpool
Oyster Creek City Hall	3210 FM 523, Oyster Creek
Bonney Annex Building,	19025 FM 521, Bonney

Hillcrest Village Municipal Building 200 W. Timberlane, Alvin
Brookside Village Community Center 6243 Brookside Rd,
Brookside Village
Surfside Beach City Hall 1304 Monument Dr., Surfside Beach

IV.

Early voting shall begin on April 24, 2023, and end on May 2, 2023 such early voting to be conducted by the County Clerk of Brazoria County, Texas, between the hours of 8:00 a.m. and 5:00 p.m. at the following locations, from Monday, April 24, 2023, through Friday, April 28, 2023 and between the hours of 7:00 a.m. through 7:00 p.m. on Saturday, April 29, 2023 and between the hours of 7:00 a.m. through 7:00 p.m. from Monday, May 1, 2023 through Tuesday May 2, 2023,

Angleton Main Location: East Annex (Old Walmart Building)
1524 E. Mulberry, Angleton

Alvin Branch Location: Alvin Library
105 S. Gordon, Alvin

Brazoria Branch Location: Brazoria Library
620 S. Brooks, Brazoria

Freeport Branch Location: Freeport Library
410 Brazosport Blvd., Freeport

Lake Jackson Branch Location: Lake Jackson Civic Center
333 Hwy 332 East, Lake Jackson

Manvel Branch Location : North Annex
7313 Corporate Dr., Manvel

Pearland East Branch Location: Tom Reid Library
3522 Liberty Dr., Pearland

Pearland West Branch Location: West Pearland Community Center
2150 Countryplace Pkwy., Pearland

Shadow Creek Branch Location: West Pearland Library
11801 Shadow Creek Pkwy, Pearland

Sweeny Branch Location

Sweeny Community Center
205 W. Ashley Wilson Road, Sweeny

West Columbia Branch Location:

Precinct 4 Building 2
121 N. 10th St., West Columbia

WITNESS MY OFFICIAL SIGNATURE HEREUNTO AFFIXED this ____ day of
February, 2023.

Brooks Bass, Mayor,
City of Freeport, Texas

ATTEST:

Betty Wells, City Clerk,
City of Freeport, Texas

MAYOR'S RETURN

I certify that on the ____ day of _____, 2023, I posted a true and correct copy of the foregoing "Notice of Election", on the bulletin board located at the FREEPORT City Hall used for posting notices of meetings of the City Council, such day being more than twenty-one (21) days prior to said election.

Brooks Bass, Mayor,
City of Freeport, Texas

CITY CLERK'S RETURN

I hereby certify that I caused a copy of the above and foregoing "Notice of Annual General Election of Officers" to be published in the Brazosport Facts, heretofore designated as the official newspaper of the City of FREEPORT, Texas, it being a newspaper published in the City of FREEPORT, in Brazoria County,

Texas, having a general circulation therein, and that I requested that such publication be one (1) time, not less than ten (10) days nor more than thirty (30) days before the date hereinabove fixed for the holding of said election.

WITNESS my official signature and the seal of said City hereunto affixed this ____ day of _____, 2023.

Betty Wells, City Clerk
City of FREEPORT, Texas

AVISO DE ELECCIÓN GENERAL ANUAL DE LA MESA

A: TODAS LAS PERSONAS CON DERECHO A VOTO EN VIRTUD DE LAS DISPOSICIONES DEL CAPÍTULO 11 DEL TÍTULO 2 DEL CÓDIGO ELECTORAL DE TEXAS QUE SON RESIDENTES DE LA CIUDAD DE FREEPORT, TEXAS, Y ESTÁN DEBIDAMENTE REGISTRADOS PARA VOTAR EN EL PRECINTO DONDE Y EL DÍA EN QUE VOTAN,
SALUDOS:

I.

Usted tomará nota de que se llevará a cabo una elección general anual en y en toda la Ciudad de FREEPORT, Texas, ("la Ciudad") el primer sábado de mayo de 2023, siendo el 6 de mayo de 2023, entre las horas de 7:00 a.m. y 7:00 p.m., con el propósito de elegir en los distritos de un solo miembro A y C, con el fin de elegir para un tres (3) mandato de un año cada uno, personas para ocupar la Posición A del Consejo ahora ocupada por Jeff Peña, y la Posición C del Concejo, ahora sostenida por Mario Muraira, y con el propósito de presentar medidas electorales para los cambios propuestos a la Carta de la Ciudad de Freeport y el intercambio de la propiedad del parque con el Distrito Escolar Independiente de Brazosport para permitir que la Ciudad desarrolle nuevos parques y / o instalaciones recreativas.

II.

Para ser elegible para votar en dicha elección, una persona debe, en la fecha en que vota, ser (1) elegible para votar bajo las disposiciones del Capítulo 2 del Título 2 del Código Electoral de Texas, (2) residente de la Ciudad, (3) debidamente registrado para votar en el precinto electoral del Condado de Brazoria, Texas, que incluye la parte de los límites corporativos de la Ciudad donde reside dicho votante y (4), en el caso de las personas que votan en la elección para las Posiciones A o C en el Concejo Municipal de la Ciudad, ser residente del Distrito A o C de la Ciudad, respectivamente.

III.

Para el propósito de esta elección, el Alcalde y el Concejo Municipal de la Ciudad han establecido un (1) lugar de votación municipal, dentro de la Ciudad

de Freeport ubicado en la Biblioteca de Freeport, 410 Brazosport Blvd., Freeport, Condado de Brazoria, Texas. Ese día, también se permitirá votar en los siguientes lugares de votación:

East Annex (Old Walmart)	1524 E Mulberry, Angleton
Pct. 4 Building #2	121 N. 10 th St., West Columbia
Brazoria Library	620 S. Brooks, Brazoria
Freeport Library	410 S. Brazosport, Freeport
Drainage District No. 4 Building	4813 W Broadway, Pearland
Sweeny Community Center	205 W. Ashley Wilson Rd., Sweeny
Danbury Community Center	6115 5 th Street, Danbury
Clute Event Center	100 Parkview Dr., Clute
Jones Creek Comm House	7207 Stephen F. Austin Rd. Jones Creek
Lake Jackson Civic Center	333 Hwy 332 East, Lake Jackson
West Pearland Comm Center	2150 Countryplace Pkwy., Pearland
Pearland Recreation Center	4141 Bailey Rd., Pearland
Alvin Library	105 S Gordon, Alvin
Silverlake Recreation Center	2715 Southwyck Pkwy, Pearland
Tom Reid Library	3522 Liberty Dr, Pearland
West Pearland Library	11801 Shadow Creek Pkwy., Pearland
North Annex,	7313 Corporate Dr., Manvel
Richwood City Hall	1800 N Brazosport Blvd, Richwood
TENTATIVO, DEPENDIENDO DE SI LA CIUDAD TIENE UNA ELECCIÓN.	
Liverpool City Hall	8901 CR 171, Liverpool
Oyster Creek City Hall	3210 FM 523, Oyster Creek

Bonney Annex Building,	19025 FM 521, Bonney
Hillcrest Village Municipal Building	200 W. Timberlane, Alvin
Brookside Village Community Center	6243 Brookside Rd, Brookside Village
Surfside Beach City Hall	1304 Monument Dr., Surfside Beach

IV.

La votación anticipada comenzará el 24 de abril de 2023 y finalizará el 2 de mayo de 2023, dicha votación anticipada será realizada por el Secretario del Condado de Brazoria, Texas, entre las 8:00 a.m. y las 5:00 p.m. en los siguientes lugares, desde el lunes 24 de abril de 2023 hasta el viernes 28 de abril de 2023 y entre las horas de 7:00 a.m. a 7:00 p.m. el sábado, 29 de abril de 2023 y entre las 7:00 a.m. y las 7:00 p.m. del lunes 1 de mayo de 2023 hasta el martes 2 de mayo de 2023,

<u>Angleton Main Location:</u>	East Annex (Old Walmart Building) 1524 E. Mulberry, Angleton
<u>Alvin Branch Location:</u>	Alvin Library 105 S. Gordon, Alvin
<u>Brazoria Branch Location:</u>	Brazoria Library 620 S. Brooks, Brazoria
<u>Freeport Branch Location:</u>	Freeport Library 410 Brazosport Blvd., Freeport
<u>Lake Jackson Branch Location:</u>	Lake Jackson Civic Center 333 Hwy 332 East, Lake Jackson
<u>Manvel Branch Location:</u>	North Annex 7313 Corporate Dr., Manvel
<u>Pearland East Branch Location:</u>	Tom Reid Library 3522 Liberty Dr., Pearland
<u>Pearland West Branch Location:</u>	West Pearland Community Center 2150 Countryplace Pkwy., Pearland

Shadow Creek Branch Location: West Pearland Library
11801 Shadow Creek Pkwy, Pearland

Sweeny Branch Location Sweeny Community Center
205 W. Ashley Wilson Road, Sweeny

West Columbia Branch Location: Precinct 4 Building 2
121 N. 10th St., West Columbia

TESTIGO DE MI FIRMA OFICIAL COLOCADA este ____ día de febrero de 2023.

Brooks Bass, alcalde,
Ciudad de Freeport, Texas

ATESTIGUAR:

Betty Wells, Secretaria de la Ciudad,
Ciudad de Freeport, Texas

REGRESO DEL ALCALDE

Certifico que el ____ día de ___, 2023, publiqué una copia verdadera y correcta del "Aviso de elección" anterior, en el tablón de anuncios ubicado en el Ayuntamiento de FREEPORT utilizado para publicar avisos de reuniones del Concejo Municipal, siendo dicho día más de veintiún (21) días antes de dicha elección.

Brooks Bass, alcalde,
Ciudad de Freeport, Texas

REGRESO DEL SECRETARIO MUNICIPAL

Por la presente certifico que hice que se publicara una copia del anterior y anterior "Aviso de Elección General Anual de Oficiales" en Brazosport Facts,

hasta ahora designado como el periódico oficial de la Ciudad de FREEPORT, Texas, siendo un periódico publicado en la Ciudad de FREEPORT, en el Condado de Brazoria, Texas, que tiene una circulación general en el mismo, y que solicité que dicha publicación fuera una (1) tiempo, no menor de diez (10) días ni mayor de treinta (30) días antes de la fecha aquí fijada para la celebración de dicha elección.

TESTIGO de mi firma oficial y el sello de dicha Ciudad al presente

Fijó este ____ día de __, 2023.

Betty Wells, Secretaria de la Ciudad,
Ciudad de Freeport, Texas



City Council Agenda Item # 5

Title: Consideration and possible action to approve an ordinance ordering the Election for propositions for amendments to the city charter be placed on the ballot on May 6, 2023.

Date: February 6, 2023

From: Tim Kelty, City Manager

Staff Recommendation: Staff recommends council consider the recommended changes to the charter and approve the ordinance.

Item Summary: This is the formal action necessary to legally call the election to place items on the ballot for voter consideration regarding measures to amend various sections and language in the Freeport City Charter.

The Charter review committee has recommended for Council consideration the following 16 questions to be placed upon the upcoming ballot:

1. Shall the City Charter be amended to authorize City Council to correct spelling, grammar and punctuation errors in the Charter?
2. Shall 3.06 of the City Charter be amended to provide that the filling of a vacancies on City Council be consistent with Article 11, Section 11 of the Texas Constitution?
3. Shall the City Charter be amended to authorize City Council to update all references to in the City's Charter to current State law?
4. Shall the City Charter be amended to authorize City Council to update all references to City Clerk to now read City Secretary?
5. Shall the City Charter be amended to authorize City Council to make all references to persons or positions gender neutral?
6. Shall Section 3.14 of the City Charter be amended to accurately reflect the City's annual audit requirements under State law?
7. Shall Section 4.02 of the City Charter be amended to require the Chief of Police to establish a place of residency within 30 miles from the City?

8. Shall Section 4.08 of the City Charter be amended to update the qualifications and duties of the Health Officer to reflect current City practice and the role of a Municipal Health Officer?
9. Shall Section 4.08 of the City Charter be amended to require the Fire Chief to act as the chief administrative officer of the department of Fire and EMS and to establish a place of residency within 30 miles from the City?
10. Shall Section 6.04 of the City Charter be amended to allow one hundred and eighty (180) days to submit signatures for a petition, which is consistent with State and Federal law?
11. Shall Section 8.03 of the City Charter be amended to remove the use of the word "slum districts" and replace with "substandard structures"?
12. Shall Section 11.02 of the City Charter be amended to update personal interest prohibitions to be consistent with Chapter 171 of the Texas Local Government Code?
13. Shall Section 11.07 of the City Charter be amended to update claims for damages against the City to be consistent with current State law?
14. Shall Section 11.10 of the City Charter be amended by removing this obsolete section concerning Interim Municipal Government?
15. Shall Section 11.12 of the City Charter be amended to update the procedure for amending the Charter to be consistent with current State and Federal law?
16. Shall Section 11.14 of the City Charter be amended by removing this obsolete section concerning the initial submission of the Charter to voters for original approval?

City Attorney David Olson has prepared the attached Election order for these measures.

Background Information: The Charter Review Committee appointed by the City Council in has met in open meetings over the last 4 months and carefully reviewed section by section the City Charter. They identified 16 potential changes for the Charter, many of which were driven the need to be more congruent with state law, some were considered good housekeeping changes, and several were identified as important and timely. There recommendations have been summarized by these 16 questions.

The attached report has been prepared by the City Attorney with the current language (or an example), the specific proposed change (or an example), The proposed ballot language and the rational for the change recommended. Examples are used when the

ballot question addresses corrections throughout the Charter for spelling, grammatical, or legal compliance with state law issues.

Special Consideration: If approved, ballot the ballot language shall be submitted to the voters in the manner provided by chapter 9 of the Local Government Code for the May 6th election.

Board or 3rd Party recommendation: This is the formal recommendation of the Charter Review Commission as stipulated procedurally under Section 11.13 of the Charter.

Supporting Documentation: Ordinance, Charter Review Commission report,

ORDINANCE NO. 2023-2687

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON THE ADOPTION OF AMENDMENTS TO THE CHARTER OF THE CITY OF FREEPORT; DESIGNATING MAY 6, 2023, AS THE DATE OF THE ELECTION; DESIGNATING THE HOURS, ELECTION PRECINCTS AND POLLING PLACES; PROVIDING FOR THE ELECTION TO BE CONDUCTED BY BRAZORIA COUNTY; PROVIDING FOR NOTICE AND HOLDING OF THE ELECTION; PROVIDING FOR EARLY VOTING; AND RELATED MATTERS.

WHEREAS, the Charter Review Commission has studied and reviewed the City Charter of the City of Freeport and made recommendations for the amendment of the City Charter; and

WHEREAS, the City Council desires to submit to the voters Charter amendments recommended by the Charter Review Commission and the City Council; and

WHEREAS, the City Council desires to contract with Brazoria County to hold and conduct the special election for the City, and such may be held as a joint election pursuant to the Joint Election Agreement and Contract for Election Services between the City and the County Clerk of Brazoria County, Texas, which is incorporated herein by reference;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, THAT:

Section 1. Special Election; Charter Amendments. A special election is ordered to be held on Saturday, May 6, 2023, between the hours of 7:00 a.m. and 7:00 p.m., for the purpose of submitting to the qualified voters of the City propositions on whether the Charter of the City of Freeport, Texas should be amended. The special election shall be held and conducted by Brazoria County, pursuant to a Joint Election Agreement and Contract for Election Services between the City and the County Clerk of Brazoria County, Texas, as authorized by State law, and such election may be held as a joint election. Early voting, both by personal appearance and by mail, will be conducted by the Brazoria County Election Officer, who is designated and appointed as the Early Voting Clerk, in accordance with the Tex. Elec. Code. Early voting shall begin on April 24, 2023, and end on May 2, 2023, such early voting to be conducted by the County Clerk of Brazoria County, Texas, between the hours of 8:00 a.m. and 5:00 p.m. at the following locations, from Monday, April 24, 2023, through Friday, April 28, 2023, and between the hours of 7:00 a.m. through 7:00 p.m. on Saturday, April 29, 2023, and from Monday, May 1, 2023 through Tuesday, May 2, 2023, at such locations, to-wit:

Angleton Main Location:	East Annex (Old Walmart Building) 1524 E. Mulberry, Angleton
Alvin Branch Location:	Alvin Library 105 S. Gordon, Alvin
Brazoria Branch Location:	Brazoria Library 620 S. Brooks, Brazoria
Freeport Branch Location:	Freeport Library 410 Brazosport Blvd., Freeport
Lake Jackson Branch Location:	Lake Jackson Civic Center 333 Hwy 332 East, Lake Jackson
Manvel Branch Location:	North Annex 7313 Corporate Dr., Manvel
Pearland East Branch Location:	Tom Reid Library 3522 Liberty Dr., Pearland
Pearland West Branch Location:	West Pearland Community Center 2150 Countryplace Pkwy., Pearland
Shadow Creek Branch Location:	West Pearland Library 11801 Shadow Creek Pkwy, Pearland
Sweeny Branch Location	Sweeny Community Center 205 W. Ashley Wilson Road, Sweeny
West Columbia Branch Location:	Precinct 4 Building 2 121 N. 10th St., West Columbia

The proposed amendments shall take effect upon their adoption and the entering of an order by the City Council declaring the amendments adopted. The proposed amendments affect only the Articles and sections listed in redlined form below, which are submitted for amendment to read as follows:

ARTICLE 3. THE GOVERNING BODY

SECTION 3.01. NUMBER, SELECTION, AND TERM.

(a) The legislative and governing body of the City of Freeport, Texas, shall be known as "The City Council of the City of Freeport, Texas" and shall be composed of a Mayor and four (4) council members. The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of Military Law but shall have no regular administrative duties. The Mayor must vote on all matters under consideration by the City Council, except as provided in Section 3.10 of this Charter. The Mayor shall not have the power of veto.

(b) The Mayor shall be elected from the City of Freeport at large for a three (3) year term at an election to be held on the ~~May-general~~ uniform election date beginning in 2021, unless such date is changed by ~~S~~state law.

(c) The City of Freeport shall be divided into four (4) single member council districts or wards designated as Wards A, B, C, and D. The resident voters of each single member district or ward shall be entitled to elect one council member from the district or ward wherein they reside. Any qualified candidate desiring to run for election to a position on the City Council from the district or ward wherein such candidate resides shall announce his or her candidacy for such position and file for election to such position in the manner required by this Charter and the Texas Election Code.

(d) The members of the City Council shall serve a three (3) year term each, with an election being held for council members from Wards A and C on the general ~~uniform~~ election date beginning in 2020 and from Wards B and D on the general ~~uniform~~ election date beginning in 2021, unless such date is changed by ~~S~~state law.

(e) All members of the City Council shall be subject to removal from office under the terms and conditions of the recall provisions of this Charter.
(Amendment adopted by electorate 5-2-92; Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-24-04)

(f) All references within this Charter to ~~specifie the general uniform Election-election Dates date are is~~ henceforth held to be synonymous with the May Uniform Election Dates as ~~pr~~scribed by current State ~~L~~aw and as may be revised by acts of the State Legislature in the future.
(Ord. No. 2020-2617, § 3(3.01), 11-17-2020)

SECTION 3.06. VACANCIES.

When a vacancy occurs in the City Council ~~for a Council position that has an unexpired term of twelve (12) months or less, the remaining members thereof, must, shall within ten (10) days, appoint a qualified person to fill the unexpired term of such vacancy; provided, however, the City Council shall not appoint more than one council member in any twelve-month period, and in the event of the occurrence of a vacancy in the City Council within a twelve-month period in which a vacancy in the City Council has been filled by the said City Council~~ if the vacancy occurs with more than twelve (12) months remaining on the unexpired term of such position, or in the event that more than one vacancy shall occur at the same time, then in such event a special election shall be held within ~~forty-one hundred and twenty (40) 20~~ days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for and on behalf of said City, and to appoint qualified persons as election officials.

SECTION 3.07. POWERS OF THE CITY COUNCIL.

The determination of all matters of policy and the exercise of all powers of local self-government shall be vested in the City Council. By way of illustration, but not limitation, the following enumerated powers are among these powers that may be exercised by the City Council:

- (a) Power to remove from office in City Government, any officer or member of any board or commission but shall not have the authority to remove any employee from the employment of the City Government, except the City Manager;
- (b) Power to establish, consolidate, or abolish administrative department, but shall not distribute the work of divisions;
- (c) Adopt the budget of the City;
- (d) Authorize the issuance of bonds by a bond ordinance in accordance with the general laws of the State of Texas;
- (e) Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;
- (f) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and

commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;

- (g) Adopt and modify the zoning plan and the building code of the City;
- (h) Adopt and modify the official maps of the City;
- (i) Adopt, modify and carry out plans proposed by the Planning Commission;
- (j) Adopt, modify and carry out plans proposed by the Planning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- (k) Grant franchises, regulate, license and fix the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire, or the transportation of freight for hire, on the public streets and alleys of the City;
- (l) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein, and provide for the erection of fireproof buildings within said limits, and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard and prescribe the manner of their removal or destruction within said limits;
- (m) Fix the salaries and compensation of the employees of the City and of all officers of the City other than that of the Mayor and other members of the City Council;
- (n) Provide for a sanitary sewer and water system and require property owners to connect their premises with sewer system, and provide for penalties for failure to make sanitary sewer connections;
- (o) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges;
- (p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided ~~in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925~~ by Chapter 311 of the Transportation Code, as now or hereafter amended;
- (q) Exercise those powers ~~related to harbor and port facilities enumerated in Acts of the 43rd Legislature of the State of Texas, 1933, p. 774, Chapter 231, commonly known as Article 1187a;~~

Revised Civil Statutes of Texas, 1925, as the same exist or may be hereafter amended provided by Chapter 54 of the Transportation Code, as now or hereafter amended;

- (r) Provide for and establish hospitalization insurance for employees;
- (s) Participate in National or State Social Security programs;
- (t) Compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the City of Freeport;
- (u) And such other and further powers as have been or may from time-to-time hereafter be delegated to Home Rule cities by the Legislature of the State of Texas, including the powers incident to the exercise thereof.
(Res. No. 1129, Props 2, 3, 4-7-79; Amendment adopted by electorate 5-12-12) (Ord. No. 2020-2617, § 3(3.07), 11-17-2020)

SECTION 3.08. CITY COUNCIL NOT TO INTERFERE IN APPOINTMENT.

Neither the City Council nor any of its members shall direct the appointment of any person to office by the City Manager or by any of ~~his~~ the City Manager's subordinates. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative services solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

SECTION 3.09. MEETINGS OF THE CITY COUNCIL.

The City eCouncil shall have two (2) regular meetings per month, the date, place and beginning time of which shall be established by ordinance. The eCity Secretary, under the direction of the Mayor or City manager, shall be responsible for complying with the notice provisions of the Open Meetings Act for all regular meetings. A regular meeting may be cancelled or the location thereof changed by the mayor. Provided, however, no regular meeting may be held outside the corporate limits of the -City. An emergency meeting or special meeting may be called by the mayor or any two (2) of the other members of the eCity eCouncil. An emergency meeting is one held in case of an emergency or urgent public necessity where only two (2) hours' notice thereof is required by the Open Meetings Act. A special meeting is any meeting other than a regular meeting or an emergency meeting. The eCity secretary, under the direction of the person or persons calling a special or emergency meeting, shall be responsible for complying with the notice provisions of the Open Meetings Act. The date, place and beginning time of a special or emergency meeting shall be determined by the person or persons calling such meeting and shall be the time specified in such notice. A special or emergency meeting may be held outside the corporate limits of the eCity. (Amendment adopted by electorate 5-7-94)

SECTION 3.10. RULES OF PROCEDURE.

The City Council shall determine its own rules of procedure and may compel the attendance of its members. A majority of the qualified members of the City Council shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present shall be necessary to adopt any ordinance or resolution. Minutes of the proceedings of all meetings, regular or special, shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the City; provided, however, in lieu of reading the minutes of each Council meeting for approval, the City Secretary may, with the consent of the City Council, furnish each member of the City Council with exact copies of the minutes of previous meetings at least three days prior to the meeting at which such minutes are to be subject to approval. Such minutes shall then be subject to approval, rejection, deletion or addition by the members of the City Council without the necessity of reading the full text of the minutes of the meetings at such meeting at which such minutes are subject to approval. No member of the City Council present at a meeting shall be excused from voting, and each member of the City Council present at the meeting must announce ~~his~~ the member's vote on question, ordinance, or resolution placed before the City Council; provided, however, a council member shall be excused from voting whenever the subject matter under consideration involves ~~his~~ the member's own official conduct, or where his personal financial interests are involved, and on these particular matters, he shall not vote but shall give his reasons for not voting, which said reasons shall be spread upon the minutes of the City Council. The vote upon the passage of all ordinances, resolutions and motions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded and permanently maintained, and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Secretary. If at any meeting of the ~~eCity eCouncil~~ less than a quorum is present, a majority of the members of the ~~eCity eCouncil~~ who are present may postpone the convening of such meeting for a period of time not to exceed one (1) hour in order to obtain a quorum.

(Amendment adopted by electorate 5-2-98) (Ord. No. 2020-2617, § 3(3.10), 11-17-2020)

SECTION 3.11. PROCEDURE FOR PASSING OF ORDINANCES.

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten ~~(10)~~ days from the date of its passage; subject to the provisions of Article 7 of this Charter. The ~~clerk~~ City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty of any such ordinance to be published in the official newspaper of the City of Freeport at least twice within ten days after the passage of said ordinance. ~~He~~ The City Secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the

ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by Article 7 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the ~~m~~Mayor and ~~city-City clerk~~ Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.

City Council shall, ~~as soon as feasible, after the close of the fiscal year,~~ select a Certified Public Accountant for the purpose of performing a complete annual audit of all books, records and accounting systems being used by the City, ~~in accordance with State law. It shall be the duty of such Certified Public Accountant to perform two (2) spot, partial audits during the fiscal year, all work to commence on an unannounced basis by such accountant. His report shall include a recapitulation of all audits made during the year and a~~ All audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any originals of the City's accounts or records.

(Res. No. 803, § 3, 4-7-69)

ARTICLE 4. ADMINISTRATIVE SERVICES

SECTION 4.01. CITY MANAGER.

(a) Appointment and Qualifications: The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. ~~He~~ The City Manger shall be chosen by the City Council solely on the basis of his or her executive and administrative training, experience and ability, and need not, when appointed, be a resident of the City of Freeport. No member of the City Council shall, during the time for which he or she is elected and for one year thereafter, be appointed City Manager.

(b) Term and Salary: The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the City Council by a vote of the majority of the entire Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. If the City Manager should be suspended, or if the office of City

Manager is vacant by reason of the death, resignation or removal of the City Manager, the City Council shall appoint some qualified person to perform the duties of such office as Acting City Manager until such suspension is lifted or a permanent City Manager is appointed and qualifies. The City Manager and any Acting City Manager shall receive such compensation as may be fixed by the City Council.

(c) Duties of the City Manager:

- (1) Appoint, and when necessary for the welfare of the City, remove any employee of the City, except as otherwise provided by this Charter;
- (2) Prepare the budget annually and submit it to the City Council, and be responsible for its administration after adoption;
- (3) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year;
- (4) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable;
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the City Council, not inconsistent with this Charter.

(d) Absence or disability of the City Manager. If the City Manager is unable to perform the duties of such office as a result of absence or disability, or if such office becomes vacant and the City Council has not yet appointed an Acting City Manager, the Mayor may designate in writing, to be filed with the City Secretary, a qualified employee of the City to perform the duties of the City Manager during such absence or disability or, in the case of such office becoming vacant, until an Acting City Manager has been appointed by the City Council. Provided, however, any such designation shall expire on the day following the next regular meeting of the City Council unless confirmed by the City Council at such meeting.

(e) Within six (6) months of his or her appointment, the City Manager shall establish and thereafter maintain a place of residence within the eCity for the duration of his or her employment by the eCity in such capacity. Provided, however, this requirement shall not apply to the person serving as the City Manager on the date it becomes a part of the Home Rule Charter. (Amendment adopted by electorate 5-4-02; Amendment adopted by electorate 5-10-14)

SECTION 4.02. DEPARTMENT OF POLICE.

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The ~~e~~Chief of ~~p~~Police shall be the chief administrative officer of the ~~department of police~~Police Department. ~~He~~~~The Chief of Police~~ shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of ~~him~~~~the Chief of Police~~ by the ~~e~~City ~~e~~Council. The ~~e~~Chief of ~~p~~Police shall be appointed by the ~~e~~City ~~m~~Manager, with the approval of the ~~e~~City ~~e~~Council, for an indefinite term. Within six (6) months of his or her appointment, the Chief of Police shall establish and thereafter maintain a place of residence within 30 miles from the City for the duration of his or her employment by the City in such capacity. The ~~e~~Chief of ~~p~~Police shall be responsible to the ~~e~~City ~~m~~Manager for the administration of the ~~p~~Police ~~d~~Department and the carrying out of the directives of the ~~e~~City ~~e~~Council. The ~~e~~Chief of ~~p~~Police may be removed from office by the ~~e~~City ~~m~~Manager with the approval of the ~~e~~City ~~e~~Council.

(b) Special Police. No persons except as otherwise provided by general law or this Charter or the ordinances passed pursuant thereto shall act as special police or special detective.
(Amendment adopted by electorate 5-7-94)

(c) The Chief of Police shall appoint one of the members of the Police Department to act as warrant officer. The warrant officer shall execute warrants and other process issued by the Judge or Clerk of the Municipal Court, attend and act as bailiff at all sessions of the Municipal Court, act as security officer for all Municipal Court personnel and perform such other and further duties as may be requested of ~~him~~~~the Chief of Police~~ by the Municipal Court Judge or assigned by the Chief of Police, with priority being given by the warrant officer to discharging the duties of warrant officer as specified herein.
(Amendment adopted by electorate 5-12-12)

SECTION 4.03. CITY SECRETARY.

The City Manager shall appoint a competent person as City Secretary and such assistants as the City Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of the proceedings of such meetings, and shall authenticate by ~~his~~ signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties the City Manager shall assign ~~to him~~, and those elsewhere provided for in this Charter and the laws of the State of Texas.

SECTION 4.04. DIRECTOR OF FINANCE.

The City Manager shall appoint a competent person as Director of Finance and such assistants as the City Council shall deem advisable. The Director of Finance shall perform the duties delegated ~~to him~~ by the City Manager and those which may be imposed upon municipal treasurers or finance directors by the laws of the State of Texas.
(Res. No. 1065, Prop. 2, 4-4-77; Amendment adopted by electorate 5-10-08)

SECTION 4.05. MUNICIPAL COURT.

(a) There shall be established and maintained a court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter prescribed by the laws of the State of Texas relative to such court.

(b) The Judge of said Court shall be a qualified voter of Brazoria County, Texas appointed by the City Council, shall hold such office at the pleasure of the City Council, and shall receive such salary as may be fixed by the City Council.
(Amendment adopted by electorate 5-8-10)

(c) The City Manager shall appoint and when necessary for the welfare of the City, remove the Municipal Court Clerk and any Deputy Municipal Court Clerks but the number of deputies and the salary of the clerk and all deputies shall be fixed by the City Council.

(d) The Clerk of said Court and ~~his any such~~ deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto, and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.

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(e) At the request of the Judge of said Court, the City Council may appoint one or more Associate Judges for said Court to sit concurrently with the Judge of said Court. An Associate Judge of said Court shall have the same qualifications as the Judge of said Court, shall serve at the pleasure of the City Council, shall receive such salary as may be fixed by the City Council and, when acting in such capacity, shall have all the powers and duties of the Judge of said Court.
(Res. No. 916, Props. 3, 4, 4-9-73) (Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12)

SECTION 4.06. CITY ATTORNEY.

The City Council shall appoint a duly licensed attorney practicing law, who shall be the City Attorney. ~~He-The City Attorney~~ shall receive for ~~his~~ services such compensation as may be fixed by the City Council and shall hold ~~his~~ office at the pleasure of the City Council. The City Attorney, or such other attorneys selected ~~by him~~ with the approval of the City Council, shall represent the City in all litigation. ~~He-The City Attorney~~ shall be the legal advisor of, and attorney and counsel for, the City and all officers and departments thereof.
(Amendment adopted by electorate 5-8-10) (Ord. No. 2020-2617, § 3(4.06), 11-17-2020)

SECTION 4.07. ~~DEPARTMENT OF HEALTH AND SANITATION OFFICER.~~

(a) Appointment and Qualification. The City Council may appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Freeport. In the event no available licensed physician qualified to practice medicine in

the State of Texas is a resident of the City of Freeport, the Council may appoint as City Health Officer a nonresident physician qualified to practice medicine in the State of Texas. When the office of City Health Officer is vacant, the County Health Officer of Brazoria County, Texas, may perform any of the duties of such office required by law to be performed by a licensed physician qualified to practice medicine in the State of Texas. ~~The City Health Officer shall be the Director of the Department of Health and Sanitation, unless the office of City Health Officer is vacant, in which event the City Manager shall appoint an employee of the City to be the Supervisor of such Department.~~

~~(b) — Administration. The City Manager shall be responsible to the City Health Officer for the general administration of the Department of Health and Sanitation and the supervision of the employees thereof.~~

~~(eb) Duties of the Health Officer. The City Health Officer shall advise with the City Council on a program of Public Health; shall cooperate in the preparation of a Sanitary Code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the Commissioners Court of Brazoria County and its agencies, and with the State Health Department and other departments of State Government in matters pertaining to health and sanitation.~~

~~(Election of 4-3-82; Amendment adopted by electorate 5-6-00; Amendment adopted by electorate 5-12-12)~~

SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.

For the protection of property and lives within the eCity, there is hereby established and there shall be maintained by the eCity a department to be known as the Freeport Fire and E.M.S. ("Emergency Medical Service"). ~~The Fire Chief shall be the chief administrative officer of the department of Fire and E.M.S. The Fire Chief shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of the Fire Chief by the City Council. Within six (6) months of appointment, the Fire Chief shall establish and thereafter maintain a place of residence within 30 miles from the City for the duration employment by the City in such capacity.~~

~~(Amendment adopted by electorate 5-16-16)~~

ARTICLE 5. NOMINATIONS AND ELECTIONS

SECTION 5.07. CONDUCTING AND CANVASSING ELECTIONS.

The election judges and other necessary election officials for conducting all such elections shall be appointed by the City Council. The election judges shall conduct the elections, determine, record and report the results as provided by the general election laws of the State of Texas. Within five (5) days after an election, the City Council shall meet, open the return, canvass and officially

declare the result of the election as to candidates and questions, and issue certificates of election to candidates elected as hereinbefore provided.

SECTION 5.08. OATH OF OFFICE.

(a) The ~~m~~Mayor and other members of the ~~e~~City ~~e~~Council and all appointed officers of the ~~e~~City, before they enter upon the duties of their offices, shall take and subscribe to the following oath or affirmation to be filed and kept in the office of the ~~e~~City ~~s~~Secretary:

"I, (name), do solemnly swear (or affirm) that I will faithfully execute the duties of the office of (title) of the City of Freeport, State of Texas, and will to the best of my ability preserve, protect and defend the Constitution and Laws of the United States and the State of Texas and the Charter and Ordinances of the City of Freeport, so help me God."

(b) The ~~m~~Mayor and other members of the ~~e~~City ~~e~~Council and all appointed officers of the ~~e~~City, before taking the oath or affirmation contained in subsection(a) above, shall subscribe and file with the Secretary of State of Texas the following statement:

"I, (name), do solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or promised to contribute any money or thing of value, or promised any public office or employment (for the giving or withholding of a vote at the election at which I was elected; as a reward to secure my appointment or confirmation thereof), so help me God."

(Amendment adopted by electorate 5-7-94)

SECTION 5.10. LIMITATION ON CONSECUTIVE TERMS OF OFFICE.

No person shall be eligible to become a candidate for election to the same office for more than ~~two~~ three (3) consecutive terms. Provided, however, the previous terms to which any person holding an elective office on the date this provision becomes effective shall not be counted.

(Amendment adopted by electorate 5-16-16) (Ord. No. 2020-2617, § 3(5.10), 11-17-2020)

ARTICLE 6. RECALL OF OFFICERS

SECTION 6.02. PETITIONS FOR RECALL.

The question of the recall of the Mayor shall be submitted to the qualified voters of the entire City but the question of the recall of the members of the City Council shall only be submitted to the qualified voters of the single member district or ward from which such member was elected. Recall shall be initiated by the filing of a petition with the person performing the duties of the City Secretary. In the case of the Mayor, such petition shall be signed by a number of the qualified

voters of the City equal to at least fifty-one ~~percent~~ (51%) of the number of votes cast at the last regular municipal election of the City but in no event less than two hundred (200) petitioners. In the case of the other members of the City Council, such petition shall be signed by a number of the qualified voters residing in the single member district or ward from which such member was elected to equal to at least fifty-one ~~percent~~ (51%) of the number of votes cast at the last regular municipal election held in such single member district or ward but in no event less than one hundred (100) petitioners.

(Amendment adopted by electorate 5-4-92; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-10-08)

SECTION 6.03. FORM OF RECALL PETITION.

(a) The recall petition mentioned above must be addressed to the City Council of the City of Freeport, must distinctly and specifically point out the ground, or grounds, upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which ~~he the officer~~ is charged. The signature shall be verified by oath in the following form:

STATE OF TEXAS COUNTY OF BRAZORIA

I, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this ____ day of ____, Notary Public in and for Brazoria County, Texas

(b) Should it be proved to the satisfaction of the City Council that the affidavit above stated is false, then in such event, it shall be the duty of the City Secretary to cause criminal charges to be filed against the affiant therein.

SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than ~~forty-five one hundred and eighty (18045)~~ days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City

Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to ~~his~~ the officer's Freeport address.

SECTION 6.06. PUBLIC HEARING TO BE HELD.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit ~~him~~ the officer to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

SECTION 6.07. ELECTION TO BE CALLED.

If the officer whose removal is sought does not resign, ~~than then~~ it shall become the duty of the City Council to order an election and fix a date for holding such recall election, the date of which election shall be not less than twenty-five (25) nor more than thirty-five (35) days from the date such petition was presented to the City Council, or from the date of the public hearing if one was held.

SECTION 6.09. RESULT OF RECALL ELECTION.

If a majority of the votes cast at a recall election shall be "NO", that is, against the recall of the person named on the ballot, ~~he~~ the officer shall continue in office for the remainder of ~~his~~ the officer's unexpired term, subject to recall as before. If a majority of the votes cast at such an election be "YES", that is, for the recall of the person named on the ballot, ~~he~~ the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the City Council are filled, as provided in Section 3.06 of this Charter.

SECTION 6.10. RECALL, RESTRICTIONS THEREON.

No recall petition shall be filed against any officer of the City of Freeport within three (3) months after ~~his~~ a City election, nor within three (3) months after an election for such officer's recall.

ARTICLE 7. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM.

SECTION 7.02. INITIATIVE.

The qualified voters of the City of Freeport may initiate legislation by submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. The petition must be signed by two hundred (200) qualified votes of the City or by a number of qualified voters equal in number to thirty ~~percent~~ percent (30%) of the number of votes cast at the last regular municipal election of the

City, whichever is greater. The petition shall be signed in the same manner as recall petitions are signed, as provided in Section 6.02 of this Charter, and shall be verified by oath in the manner and form provided for recall petitions in Section 6.03 of this Charter. The petition may consist of one or more copies as permitted for recall petitions in Section 6.04 of this Charter but each copy of the petition shall have attached to it a copy of the proposed ordinance or resolution. The petition shall be filed with the person performing the duties of City Secretary. Within five (5) days after the filing of the petition, the person performing the duties of City Secretary shall present the petition and the proposed ordinance or resolution to the City Council. Upon presentation to ~~#City Council~~ of the petition and the proposed ordinance or resolution, it shall become the duty of the City Council, within ten (10) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held on the next uniform election date specified in the Texas Election Code at which the qualified voters of the City of Freeport shall vote on the question of adopting or rejecting the proposed legislation. Provided, however, if there are less than forty-five (45) days remaining before such date, then such special election shall be called for the next succeeding uniform election date occurring after the expiration of forty-five (45) days. (Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-6-96)

SECTION 7.03. REFERENDUM.

Qualified voters of the City of Freeport may require that any ordinance or resolution, with the exception of ordinances or resolutions levying taxes, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, prepared, signed and verified as required for petitions initiating legislation as provided in Section 7.02 of this Charter and shall be submitted to the person performing the duties of City Secretary. Upon the filing of such petition, the person performing the duties of City Secretary shall present said petition to the City Council at its next meeting. Thereupon the City Council shall reconsider such ordinance or resolution, and if ~~#City Council~~ does not entirely repeal the same, ~~City Council~~ shall submit it to popular vote as provided in Section 7.02 of this Charter. Pending the holding of such election, such ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters thereon at such election shall vote in favor thereof.

ARTICLE 8. MUNICIPAL PLANNING AND ZONING.

SECTION 8.01. PLATTING OF PROPERTY.

(a) Hereafter, every owner of any tract of land situated within the corporate limits of the City of Freeport, who may divide the same in two (2) or more parts for the purpose of laying out any subdivision or any addition to the City, shall comply with the provisions of ~~Article Chapter~~ 212 of the Local Government Code, as now hereafter amended, and incorporated herein for all purposes.

(b) The provisions of Section 8.01(a) above shall apply similarly to the owner of any tract of land situated within the actual ~~e~~City limits of the City of Freeport, Texas, or within any extraterritorial jurisdiction of said City, as such extraterritorial jurisdiction exists or may be extended under the laws of the State of Texas.

(Ord. No. 916, Prop. 6, 4-9-73; Amendment adopted by electorate 5-7-94)

SECTION 8.02. DEVELOPMENT OF PROPERTY.

The expenditure of public funds shall be authorized for the development of privately-owned land or subdivisions for economic development, only with a legally valid ~~Chapter 380 #A~~Agreement approved by City Council and signed by the ~~m~~Mayor, following a public hearing on the matter. Such expenditures may be for projects situated within or beyond the corporate limits of the City. (Amendment adopted by electorate 5-10-08) (Ord. No. 2020-2617, § 3(8.02), 11-17-2020)

SECTION 8.03. PLANNING COMMISSION.

The City Council shall appoint a City Planning Commission consisting of five (5) members who shall be residents in the City of Freeport while serving and for not less than six (6) months prior to being appointed, and who shall serve without compensation.

(a) Term of Office: The terms of office of all persons serving on the Planning Commission shall be established by ordinance adopted by the City Council.

(b) Rules of Procedure: The Commission shall elect, annually, one of its members chairman, and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions, the chairman being entitled to vote upon any question. No member of the Planning Commission present at a meeting shall be excused from voting, and each member of the Planning Commission present at the meeting must announce ~~his-a~~ vote on questions, ordinances, or resolutions; provided however, a Commission Member shall be excused from voting whenever the subject matter under consideration involves ~~his-the Member's~~ personal financial interests, and on this particular matter ~~he-the Member~~ shall not vote but shall give ~~his the~~ reasons for not voting. All meetings shall be open to the public and a record of all proceedings shall be kept, which record shall be filed with the person performing the duties of City Secretary and shall be a public record. The annual election of the chairperson shall take place in June of each year or whenever all vacant positions have been filled, whichever is later.

(c) Vacancies: Membership on the Planning Commission shall be accompanied by active participation in the activities of the Commission, and any member who is absent from three (3) consecutive regular meetings of the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the City Council that a vacancy in the Planning

Commission exists. Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the City Council for the remainder of the unexpired term.

(d) Powers and Duties: The Commission shall have the power and shall be required to:

(1) Make recommendations for the amendment, extension and additions to the master plan for the physical development of the City;

(2) Approve or disapprove plats of proposed subdivisions submitted in accordance with Section 8.01 of this Charter. In considering such plats, the Planning Commission shall require that the proposed subdivision shall meet, so far as is practicable, all the standards of layout and street and sidewalk construction on comparable property within the corporate limits of the City of Freeport, and shall further require that restrictions be placed on the use of the property which are consistent with the restrictions on comparable property within the City of Freeport. Upon approving such plats, and before they are released for recording, the Planning Commission shall submit all copies of the approved plats to the City Council for its approval or disapproval;

(3) Draft, and recommend to the City Council for adoption, an official map of the City and recommend or disapprove proposed changes in such map;

(4) Make, and recommend to the City Council for adoption, a zoning plan and recommend or disapprove proposed changes in such plan;

(5) Make, and recommend to the City Council for adoption, plans for the clearance and rebuilding of ~~slum-districts~~substandard structures and blighted areas which may develop within the City;

(6) Compile and recommend to the City Council for adoption, a building code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for wiring;

(7) Advise and recommend to the City Council traffic regulations for the City;

(8) Meet not less than once each month; meetings to be held at the Municipal Courtroom of the Municipal Court and Police Department Building, unless otherwise indicated in the posted notice for such meeting;

(9) Perform such other duties and be vested with such other powers as the City Council shall from time to time prescribe.

(e) Liaison with City Council: The City Manager or ~~his a designated~~ representative shall attend the meetings of the Planning Commission and shall serve as liaison between the Planning Commission and the City Council.

(Res. No. 1129, Props. 7, 8, 4-7-79; Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-13-06; Amendment adopted by electorate 5-8-10; Amendment adopted by electorate 5-12-12)

ARTICLE 9. MUNICIPAL FINANCE.

SECTION 9.02. PREPARATION AND SUBMISSION OF BUDGET.

The City Manager, between sixty (60) and ninety (90) days prior to the beginning of each fiscal year, shall submit to the Council a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain the following:

- (a) A budget message, explanatory of the budget, which message shall contain an outline of the proposed financial policies of the City for the fiscal year, shall set forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and shall explain any major changes in financial policy;
- (b) A consolidated statement of anticipated receipts and proposed expenditures for all funds;
- (c) An analysis of property valuations;
- (d) An analysis of tax rate;
- (e) Tax levies and tax collections by years for at least five (5) years;
- (f) General fund resources in detail;
- (g) Special fund resources in detail;
- (h) Summary of proposed expenditures by function, department, and activity;
- (i) Detailed estimates of expenditures shown separately for each activity to support summary No.(h) above;
- (j) A revenue and expense statement for all types of bonds;
- (k) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding;

- (l) A schedule of requirements for the principal and interest of each issue of bonds;
- (m) The appropriation ordinance; and
- (n) The tax-levying ordinance.

SECTION 9.10. DATE FOR FINAL ADOPTION.

The budget shall be finally adopted not later than fifteen (15) days prior to the beginning of the fiscal year and should the City Council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance shall be deemed adopted for the ensuing fiscal year. If delayed by a situation beyond control of the City, it shall be acted on as soon as practicable.

(Amended 4-86)

SECTION 9.11. EFFECTIVE DATE OF BUDGET; CERTIFICATIONS; COPIES MADE AVAILABLE.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the person performing the duties of City Secretary, the County Clerk of Brazoria County and the State Controller of Public Accounts at Austin. The final budget shall be printed, mimeo-graphed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

SECTION 9.17. DEPARTMENT OF TAXATION.

Unless the eCity eCouncil has required the eCounty to assess and collect eCity taxes pursuant to Section 6.22 of the Tax Code, as now or hereafter amended, the eCity mManager shall appoint a qualified person to be eCity tax assessor-collector. Such person shall give a surety bond for the faithful performance of the duties of such office, including by way of illustration and not limitation, compliance with the controlling provisions of the sState law bearing upon the functions of such office, in a sum which shall be fixed by the eCity eCouncil at not less than ten thousand dollars. If the eCity eCouncil has required the eCounty to assess and collect eCity taxes, the applicable duties of the eCity tax assessor-collector contained in this article shall be performed by the eCounty tax assessor-collector or, if not, then by the eCity mManager.

(Amendment adopted by electorate 5-7-94)

SECTION 9.24. TAXES; WHEN DUE AND PAYABLE.

All taxes due the City of Freeport may be paid at any time after the tax roll for the year has been approved, which shall ~~not~~ be ~~not~~ later than October first (1st); and such taxes shall be payable at the office of the Brazoria County Assessor-Collector of Taxes at Angleton, Texas, if the eCity

eCouncil has required the eCounty to assess and collect eCity taxes pursuant to Section 6.22 of the Tax Code, as now or hereafter amended; otherwise, such taxes shall be due and payable at the office of the City Tax Assessor-Collector.
(Amendment adopted by electorate 5-7-94)

SECTION 9.25. TAX LIENS.

The tax levied by the City is hereby declared to be a lien, charge or encumbrance upon the property as of January first (1st) upon which the tax is due, which lien, charge or encumbrance the City is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge or encumbrance on the property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this sState or person whose residence is unknown, but also against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien.

ARTICLE 10. FRANCHISE AND PUBLIC UTILITIES.

SECTION 10.04. RIGHT OF REGULATION.

All grants, removals, extensions, or amendments of public utility franchise, whether it be so provided in the ordinance or not, shall be subject to the right of the City Council of the City of Freeport:

(a) To repeal the same by ordinance, after thirty (30) days' advance notice (during which time the grantee shall have the opportunity to correct any default), and hearing, upon the failure of grantee to comply with the ordinances, franchise and Charter of the City of Freeport; and from which decision of the City Council, the grantee shall have the right of appeal to the Courts of this State;

(b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

(d) To examine and audit at any time during regular business hours the accounts and other records of any such utility which are relevant to the City's right of regulation, and to require annual and other reports, including reports on operation within the City of Freeport;

(c) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public; and

(f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

SECTION 10.08. EXTENSIONS.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in the original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 10.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

ARTICLE 11. GENERAL PROVISIONS.

SECTION 11.011. SELECTION OF NEWSPAPERS FOR PUBLICATIONS.

(a) Every ordinance or resolution adopted by the City Council, which is required to be published in a newspaper, shall designate, in the body thereof, one or more newspapers of general circulation within the City of Freeport in which such ordinance or resolution, or the descriptive caption thereof, shall be published; and it shall also appear on the City's website for at least ten (10) days or for the length of time between each publication, if it is required to be published more than once, whichever is longer.

(b) Each officer of the City, who is required to publish any printed notice or other printed matter in any newspaper, shall select one or more newspapers in which such printed notice or other printed matter shall be published.

(c) No newspaper may be designated or selected that does not meet all of the applicable requirements of sState law for newspaper publication. Provided, however, the designation or selection of a newspaper as provided above shall be prima facie evidence that such newspaper met all of such requirements at the time of such publication.

(d) When a newspaper is designated or selected as provided above, it shall be deemed to be an "official newspaper" of the City, as that term is used in any provision of this Charter, the ordinances of the City or any statute or regulation requiring publication.

(Adopted by electorate 5-24-04; Amendment adopted by electorate 5-16-16)
(Ord. No. 2020-2617, § 3(11.011), 11-17-2020)

SECTION 11.02. PERSONAL INTEREST.

No officer or employee of the City shall ~~have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested directly, or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one percent (1%) of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council~~ participate in the deliberation, vote, or other decision on any matter involving a business entity or real property in which the officer or employee has a substantial interest as provided by Chapter 171 of the Texas Local Government Code. For purposes of this section, an officer or employee has a substantial interest in a business entity if:

- (1) ~~the officer or employee owns 10 percent (10%) or more of the voting stock or shares of the business entity or owns either 10 percent (10%) or more or \$15,000 or more of the fair market value of the business entity; or~~
- (2) ~~funds received by the officer or employee from the business entity exceed 10 percent (10%) of the person's gross income for the previous year.~~

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~~An officer or employee has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. An officer or employee is prohibited from participating in the deliberation, vote, or other decision involving such real property if it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the real property, distinguishable from its effect on the public. An officer or employee is considered to have a substantial interest under this section if a person related to the officer or employee in the first degree by consanguinity or affinity, as determined under Chapter 573, Texas Government Code, has a substantial interest under this section.~~

SECTION 11.07. SPECIAL PROVISIONS COVERING DAMAGE SUITS.

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone ~~in his~~that person's behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within ~~thirty(30) days~~six (6) months after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of 180 days after the notice hereinbefore described has

been filed with the City Manager or the person performing the duties of City Secretary, not later than two (2) years after the occurrence of the injury or damage to the property. In case of injuries resulting in death, before the City shall be liable in damages therefor the person or persons claiming such damages shall within ~~thirty (30) days~~ six (6) months after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing therein contained shall be construed to mean that the City of Freeport waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, and Constitution and general laws of the State of Texas.
(Amended 5-88)

SECTION 11.08. SEPARABILITY CLAUSE.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdictions, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

~~SECTION 11.10. INTERIM MUNICIPAL GOVERNMENT, [deleted in its entirety]~~

~~The members of the governing body holding office when this Charter is adopted shall continue in office under the terms of Article 3 of this Charter.~~

SECTION 11.~~10~~11. APPLICABILITY OF GENERAL LAWS.

The Constitution of the State of Texas, the statutes of said State applicable to Home-Ruled Municipal Corporation, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of Freeport, but the City shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of Freeport shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

SECTION 11.~~11~~11. AMENDING THE CHARTER.

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended. ~~In the event the United States Department of Justice should fail or refuse to pre-clear any proposed amendment to this charter which submitted to the voters at a charter amendment election and which is required by law to be pre-cleared by said department; and if at such election the majority of voters vote in favor of such proposed amendment, such proposed amendment shall nevertheless have no force and effect unless and until it has either been pre-cleared by said department or the validity of such~~

~~proposed amendment has been established by the final judgment of a court of competent jurisdiction.~~

(Amendment adopted by electorate 5-7-94; Amendment adopted by electorate 5-4-02)

SECTION 11.1312. CHARTER REVIEW COMMISSION.

The City Council shall appoint at its first regular meeting in June in each odd numbered year, a Charter Review Commission of five citizens of the City of Freeport.

(a) Duties of the Commission: It shall be the duty of such Charter ~~R~~Review Commission to:

(1) Inquire into the operation of the City Government under the Charter provisions and determine whether any such provisions require revision. To this end, public hearings may be held; and the Commission shall have the power to compel the attendance of any officer or employce of the City and to require the submission of any of the City records which it may deem necessary to the conduct of such hearing;

(2) Propose any recommendations it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the City Government;

(3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions;

(4) Report its finding and present its proposed amendments, if any, to the City Council.

(b) Action by the City Council: The City Council shall receive and have published in the official newspaper of the City any report presented by the Charter Review Commission, shall consider any recommendations made, and if any amendment or amendments be presented as a part of such report, may order such amendment or amendments to be submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended. (Amendment adopted by electorate 5-2-98)

(c) Term of Office: The term of office of such Charter Review Commission shall be six months, and, if during such term no report is presented to the City Council, then all records of the proceedings of such Commission shall be filed with the person performing the duties of City Secretary and shall become a public record. (Election of 4-3-82)

~~SECTION 11.14. SUBMISSION OF CHARTER TO VOTERS, [deleted in its entirety]~~

~~The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should~~

be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Freeport at an election to be held for that purpose on the 18th day of June, 1960. Not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Freeport as appears from the latest tax collector's roll. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Freeport, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Texas Secretary of State and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

SECTION 11.4513. GENDER NEUTRAL PROVISION.

Whenever in this Charter the pronouns he, him or his standing alone are used, such pronouns shall be construed to mean he or she, him or her and his or hers.

(Amendment adopted by electorate 5-15-18)

~~We, the undersigned members of the Freeport Charter Review Commission, heretofore duly elected to prepare a Charter for the City of Freeport, Texas, do hereby certify that this publication constitutes a true copy of the proposed Charter for the City of Freeport, Texas, as adopted unanimously by the members hereof.~~

~~Dwight N. Wetherell, Chairman~~

~~Earl B. Barnes, Vice-Chairman~~

~~Mrs. Duncan-MueLaren, Secretary~~

~~G. C. Hardman, Jr.~~

~~Mrs. Delia Capps~~

~~E. L. Haynes~~

~~Mrs. A. A. Miller~~

~~J. W. Royalty, Jr.~~

~~Mrs. Bertha Salmans~~

~~Walter Snyder~~

Sam Sutherland, Jr.

Sanford R. Thompson

George T. Wommack

Harold E. Ammons

Dan M. Lawlis

Section 2. Charter Amendment Notice and Propositions. Notice of the election shall be given and the election shall be held in compliance with Chapter 9, Tex. Loc. Gov't. Code, and Section 4 of this Ordinance. The ballots for the special election shall comply with the Texas Election Code and be in the form provided by the City to Brazoria County for use on the voting devices and ballots used by the City; provided that the official ballot shall be prepared in such a manner as will permit the voters to vote "For" or "Against" the propositions submitted, with the propositions to be expressed on the official ballot in a form substantially as follows:

Proposition No. 1

Correction of Spelling, Grammar and Punctuation

Shall the City Charter be amended to authorize City Council to correct spelling, grammar and punctuation errors in the Charter?

FOR _____ AGAINST _____

Proposition No. 2

Filling of Vacancies

Shall 3.06 of the City Charter be amended to provide that the filling of a vacancies on City Council be consistent with Article 11, Section 11 of the Texas Constitution?

FOR _____ AGAINST _____

Proposition No. 3

Update State Law References

Shall the City Charter be amended to authorize City Council to update all references to in the City's Charter to current State law?

FOR _____ AGAINST _____

Proposition No. 4

City Secretary References

Shall the City Charter be amended to authorize City Council to update all references to City Clerk to now read City Secretary?

FOR _____ AGAINST _____

Proposition No. 5

Gender Neutrality

Shall the City Charter be amended to authorize City Council to make all references to persons or positions gender neutral?

FOR _____ AGAINST _____

Proposition No. 6

Annual Audit

Shall Section 3.14 of the City Charter be amended to accurately reflect the City's annual audit requirements under State law?

FOR _____ AGAINST _____

Proposition No. 7

Chief of Police

Shall Section 4.02 of the City Charter be amended to require the Chief of Police to establish a place of residency within 30 miles from the City?

FOR _____ AGAINST _____

Proposition No. 8

Health Officer

Shall Section 4.08 of the City Charter be amended to update the qualifications and duties of the Health Officer to reflect current City practice and the role of a Municipal Health Officer?

FOR _____ AGAINST _____

Proposition No. 9

Fire Chief

Shall Section 4.08 of the City Charter be amended to require the Fire Chief to act as the chief administrative officer of the department of Fire and EMS and to establish a place of residency within 30 miles from the City?

FOR _____ AGAINST _____

Proposition No. 10

Filing of Petition

Shall Section 6.04 of the City Charter be amended to allow one hundred and eighty (180) days to submit signatures for a petition, which is consistent with State and Federal law?

FOR _____ AGAINST _____

Proposition No. 11

Substandard Structures

Shall Section 8.03 of the City Charter be amended to remove the use of the word "slum districts" and replace with "substandard structures"?

FOR _____ AGAINST _____

Proposition No. 12

Personal Interest

Shall Section 11.02 of the City Charter be amended to update personal interest prohibitions to be consistent with Chapter 171 of the Texas Local Government Code?

FOR _____ AGAINST _____

Proposition No. 13

Claims against the City

Shall Section 11.07 of the City Charter be amended to update claims for damages against the City to be consistent with current State law?

FOR _____ AGAINST _____

Proposition No. 14

Interim Government

Shall Section 11.10 of the City Charter be amended by removing this obsolete section concerning Interim Municipal Government?

FOR _____ AGAINST _____

Proposition No. 15

Amending the Charter

Shall Section 11.12 of the City Charter be amended to update the procedure for amending the Charter to be consistent with current State and Federal law?

FOR _____ AGAINST _____

Proposition No. 16

Initial Adoption of City Charter

Shall Section 11.14 of the City Charter be amended by removing this obsolete section concerning the initial submission of the Charter to voters for original approval?

FOR _____ AGAINST _____

Section 3. Election Procedures. The Brazoria County Election Officer and his/her employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election in the manner provided by the Joint Election

Agreement and Contract for Election Services, with the City and the law governing the holding of city charter elections by home rule cities of the State of Texas; and the official ballots, together with such other election materials as are required by the Texas Election Code, shall be prepared in both the English and Spanish languages and shall contain such provisions, markings and language as is required by law.

Section 4. Notice of Election.

(a) The Mayor of the City is hereby authorized and directed to issue a notice of said election, including a substantial copy of above and foregoing proposition, and to cause the same to be posted in accordance with Section 4.003(a)(2) of the Election Code for at least twenty-one (21) days prior to the date named above for the holding of said election on the bulletin board used for posting notices of meetings of the City Council.

(b) The City Secretary of the City is hereby authorized and directed to cause a copy of such notice, including a substantial copy of above and foregoing proposition, to be published in a newspaper in accordance with Section 4.003(a)(1) of the Election Code, such publication to be at least ten (10) days before but not more than thirty (30) days before the date named above for the holding of said special election.

Section 5. Election Precincts and Polling Places. The election precincts for the election shall be the election precincts established by Brazoria County, provided that each shall contain and include geographic area that is within the City. The polling place for each such election precinct shall be the polling place established by Brazoria County for such election precincts in Brazoria County and voting by residents of the City. The polls shall remain open on the day of the election from 7:00 a.m. to 7:00 p.m. The returns for precincts in Brazoria County will be provided by precinct and the Brazoria County Election Officer shall tabulate and provide the election returns for the election.

Section 6. Joint Election. The City agrees to conduct a joint election with other political subdivisions within Brazoria County, provided that such political subdivision holds an election on May 6, 2023, in all or part of the same territory as the City (the "Political Subdivisions"). The joint election shall be conducted in accordance with State law, this Ordinance, and the Joint Election Agreement and Contract for Election Services with Brazoria County.

Section 7. Effective Date. This ordinance shall be effective immediately upon its passage and approval.

READ, PASSED AND APPROVED this 6th day of February, 2023.

Brooks Bass, Mayor,
City of Freeport, Texas

ATTEST:

Betty Wells, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

David W. Olson, Interim City Attorney,
City of Freeport, Texas

CITY OF FREEPORT

Charter Review Commission Recommendations

DRAFT

December 19, 2022

Proposed Changes to the Existing City of Freeport Home Rule Charter: The following changes are proposed for Council consideration to be placed on the Ballot for the May 2023 General Election. In keeping with prior years' recommendation reports where the text in BLACK is the current language, the underlined GREEN text is the proposed language for inclusion in the Charter, the text in RED is the proposed ballot language and the text in BLUE is the rationale behind the change.

Proposed Change #1: Correction to Spelling, Grammar, and Punctuation Errors in the Charter, see Section 3.02 below as an example.

Proposed Charter Language to correct such errors:

SECTION 3.02. QUALIFICATIONS.

The Mayor and each member of the City Council ... without a valid written excuse filed with the Mayor or Mayor Pro Tem ... and shall fill such vacancy as set forth in Section 3.06 of this Charter.

Proposed Ballot Language:

Proposition #1: Shall the Charter be amended to authorize City Council to correct spelling, grammar, and punctuation errors in the Charter?

Rationale for Change:

There are spelling, grammar, and punctuation errors within the Charter, and this proposition would authorize City Council to adopt a revised Charter correcting such errors.

Proposed Change #2: Section 3.06

Current Charter Language:

SECTION 3.06. VACANCIES.

When a vacancy occurs in the City Council, the remaining members thereof, must, within ten (10) days, appoint a qualified person to fill the unexpired term of such vacancy; provided, however, the City Council shall not appoint more than one council member in any twelve-month period, and in the event of the occurrence of a vacancy in the City Council within a twelve-month period in which a vacancy in the City Council has been filled by the said City Council, or in the event that more than one vacancy shall occur at the same time; then in such event a special election shall be held within forty (40) days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so

held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for an on behalf of said City, and to appoint qualified persons as election officials.

Proposed Charter Language:

SECTION 3.06. VACANCIES.

When a vacancy occurs in the City Council for a Council position that has an unexpired term of twelve (12) months or less, the remaining members thereof, shall appoint a qualified person to fill the unexpired term of such vacancy; provided, however, if the vacancy occurs with more than twelve (12) remaining on the unexpired term of such position, or in the event that more than one vacancy shall occur at the same time, then in such event a special election shall be held within one hundred and twenty (120) days from the date the last vacancy occurred, for the purpose of electing the successor or successors. In the event that the Mayor and Mayor Pro Tem should resign at the same time, the remaining members of the City Council, or any of them, shall have the right and power to issue legal notice of such election to be so held, and to elect and appoint election officials. Should all positions on the City Council become vacant at one time, then in such event, the County Judge of Brazoria County, Texas, is hereby empowered and directed to issue notice of such special election for an on behalf of said City, and to appoint qualified persons as election officials.

Proposed Ballot Language:

Proposition #2: Shall the Charter be amended to provide that the filling of a vacancies on City Council be consistent with Article 11, Section 11 of the Texas Constitution?

Rationale for Change:

The Charter needs to be consistent with the Texas Constitution when filling vacancies on City Council.

Proposed Change #3: Updating references to State law in the Charter, see Section 3.07(p) and (q) as an example.

Current Charter Language:

SECTION 3.07. POWERS OF THE CITY COUNCIL

(p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided in Article 1105b, Chapter 9, Title 28, of the Revised Civil Statutes of the State of Texas of 1925, as now or hereafter amended;

(q) Exercise those powers enumerated in Acts of the 43rd Legislature of the State of Texas, 1933, p. 774, Chapter 231, commonly known as Article 1187a, Revised Civil Statutes of Texas, 1925, as the same exist

or may be hereafter amended;

Proposed Charter Language:

SECTION 3.07. POWERS OF THE CITY COUNCIL

(p) Exercise exclusive dominion, control and jurisdiction, including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the City and provide for the improvement of same as provided by Chapter 311 of the Transportation Code, as now or hereafter amended;

(q) Exercise those powers related to harbor and port facilities provided by Chapter 54 of the Transportation Code, as now or hereafter amended;

Proposed Ballot Language:

Proposition #3: Shall the Charter be amended to authorize City Council to update all references to in the City's Charter to current State law?

Rationale for Change:

The Charter currently has references to outdated and uncodified State law that needs to be updated to current State law.

Proposed Change #4 and #5: Update references in the Charter to the City Secretary position and make references to persons or positions gender neutral, see Section 3.11 as an example.

Current Charter Language:

SECTION 3.11. PROCEDURE FOR PASSING OF ORDINANCES.

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article 7 of this Charter. The clerk shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty of any such ordinance to be published in the official newspaper of the City of Freeport at least twice within ten days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by Article 7 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and city clerk and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record

the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

Proposed Charter Language:

SECTION 3.11. PROCEDURE FOR PASSING OF ORDINANCES.

Every ordinance shall be introduced in written or printed form and upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than ten days from the date of its passage; subject to the provisions of Article 7 of this Charter. The City Secretary shall give notice of the passage of every ordinance imposing a penalty, fine or forfeiture for a violation of the provisions thereof, by causing the caption or title, including the penalty of any such ordinance to be published in the official newspaper of the City of Freeport at least twice within ten days after the passage of said ordinance. The City Secretary shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, which shall be prima facie evidence of the legal publication and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, amendment, revision and codification of the ordinances of the City for publication in book or pamphlet form. Except as otherwise provided by Article 7 of this Charter, it shall not be necessary to the validity of any ordinance that it shall be read more than one time or considered at more than one session of the City Council. Every ordinance shall be authenticated by the signature of the mayor and City Secretary and shall be systematically recorded and indexed in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of council meetings. The City Council shall have power to cause the ordinances of the City to be corrected, amended, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

Proposed Ballot Language:

Proposition #4: Shall the Charter be amended to authorize City Council to update all references to City Clerk to now read City Secretary?

Proposition #5: Shall the Charter be amended to authorize City Council to make all references to persons or positions gender neutral?

Rationale for Change:

The Charter should reflect current references to the City Secretary position and be gender neutral throughout.

Proposed Change #6: SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.

Current Charter Language:

SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.

City Council shall, as soon as feasible, after the close of the fiscal year, select a Certified Public Accountant for the purpose of performing a complete audit of all books, records and accounting systems being used by the City. It shall be the duty of such Certified Public Accountant to perform two (2) spot, partial audits during the fiscal year, all work to commence on an unannounced basis by such accountant. His report shall include a recapitulation of all audits made during the year and all audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any of the City's accounts or records.

Proposed Charter Language:

SECTION 3.14. AUDIT AND EXAMINATION OF CITY BOOKS AND ACCOUNTS.

City Council shall select a Certified Public Accountant for the purpose of performing a complete annual audit of all books, records and accounting systems being used by the City, in accordance with State law. All audit reports shall be filed with the City Council, shall be available for public inspection, and shall be a part of the archives of this City. Such accountant, so selected, shall not maintain or keep any originals of the City's accounts or records.

Proposed Ballot Language:

Proposition #6: Shall Section 3.14 of the Charter be amended to accurately reflect the City's annual audit requirements under State law?

Rationale for Change:

The current Charter language in Section 3.14 requires two unannounced audits of the City's records. This is not a practical requirement and is inconsistent with the audit requirements provided for in Chapter 103 of the Texas Local Government Code.

Proposed Change #7: SUBSECTION (a) Chief of Police, under SECTION 4.02. DEPARTMENT OF POLICE

Current Charter Language:

SECTION 4.02. DEPARTMENT OF POLICE.

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of him by the city council. The chief of police shall be appointed by the city manager, with the approval of the city council, for an indefinite

term. The chief of police shall be responsible to the city manager for the administration of the police department and the carrying out of the directives of the city council. The chief of police may be removed from office by the city manager with the approval of the city council.

Proposed Charter Language:

SECTION 4.02. DEPARTMENT OF POLICE.

There shall be established and maintained a Department of Police to preserve order within the City and to secure the residents of said City from violence and the property therein from injury or loss.

(a) Chief of Police. The chief of police shall be the chief administrative officer of the department of police. He shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required of him by the city council. The chief of police shall be appointed by the city manager, with the approval of the city council, for an indefinite term. Within six (6) months of his or her appointment, the Chief of Police shall establish and thereafter maintain a place of residence within 30 miles from the city for the duration of his or her employment by the city in such capacity. The chief of police shall be responsible to the city manager for the administration of the police department and the carrying out of the directives of the city council. The chief of police may be removed from office by the city manager with the approval of the city council.

Proposed Ballot Language:

Proposition #7: Shall the Charter be amended to require the Chief of Police to establish a place of residency within 30 miles from the City?

Rationale for Change:

The Charter Review Commission felt that it was important for the Chief of the Police Department to resident close to the City in order to improve visibility and response time.

Proposed Change #8: SECTION 4.07. DEPARTMENT OF HEALTH AND SANITATION.

Current Charter Language:

SECTION 4.08. DEPARTMENT OF HEALTH AND SANITATION.

(a) Appointment and Qualification. The City Council may appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Freeport. In the event no available licensed physician qualified to practice medicine in the State of Texas is a resident of the City of Freeport, the Council may appoint as City Health Officer a nonresident physician qualified to practice medicine in the State of Texas. When the office of City Health Officer is vacant, the County Health Officer of Brazoria County, Texas, may perform any of the duties of such office required by law to be performed by a licensed physician qualified to practice medicine in the State of Texas. The City Health Officer shall be the Director of the Department of Health and Sanitation, unless the office of City Health Officer is vacant, in which event the City Manager shall appoint an employee of the City to be the Supervisor of such Department.

(b) Administration. The City Manager shall be responsible to the City Health Officer for the general administration of the Department of Health and Sanitation and the supervision of the employees thereof.

(c) Duties of the Health Officer. The City Health Officer shall advise with the City Council on a program of Public Health; shall cooperate in the preparation of a Sanitary Code; shall cooperate with nearby cities on problems of health and sanitation; shall cooperate with the Commissioners Court of Brazoria County and its agencies, and with the State Health Department and other departments of State Government in matters pertaining to health and sanitation.

Proposed Charter Language:

SECTION 4.08. HEALTH OFFICER.

(a) Appointment and Qualification. The City Council may appoint a City Health Officer who shall be a licensed physician qualified to practice medicine in the State of Texas and a resident of the City of Freeport. In the event no available licensed physician qualified to practice medicine in the State of Texas is a resident of the City of Freeport, the Council may appoint as City Health Officer a nonresident physician qualified to practice medicine in the State of Texas. When the office of City Health Officer is vacant, the County Health Officer of Brazoria County, Texas, may perform any of the duties of such office required by law to be performed by a licensed physician qualified to practice medicine in the State of Texas.

(b) Duties of the Health Officer. The City Health Officer shall advise with the City Council on a program of Public Health; shall cooperate with nearby cities on problems of health; shall cooperate with the Commissioners Court of Brazoria County and its agencies, and with the State Health Department and other departments of State Government in matters pertaining to health.

Proposed Ballot Language:

Proposition #8: Shall the Charter be amended to update the qualifications and duties of the Health Officer to reflect current City practice and the role of a Municipal Health Officer?

Rationale for Change:

The City does not have a Department of Health, and the duties and responsibilities of a Health Officer have changed since this Charter provision was drafted. The proposed changes reflect current duties and responsibilities of the City's Health Officer.

Proposed Change #9: SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.

Current Charter Language:

SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.

For the protection of property and lives within the city, there is hereby established and there shall be maintained by the city a department to be known as the Freeport Fire and E.M.S. ("Emergency Medical Service").

Proposed Charter Language:

SECTION 4.08. FIRE AND E.M.S. DEPARTMENT.

For the protection of property and lives within the city, there is hereby established and there shall be maintained by the city a department to be known as the Freeport Fire and E.M.S. ("Emergency Medical Service"). The Fire Chief shall be the chief administrative officer of the department of Fire and EMS. The Fire Chief shall, with the approval of the City Manager, appoint and remove the employees of such department and shall perform such other duties as may be required by the City Council. Within six (6) months of his or her appointment, the Fire Chief shall establish and thereafter maintain a place of residence within 30 miles from the city for the duration of his or her employment by the City in such capacity.

Proposed Ballot Language:

Proposition #9: Shall the Charter be amended to require the Fire Chief to act as the chief administrative officer of the department of Fire and EMS and to establish a place of residency within 30 miles from the City?

Rationale for Change:

The added language about the Fire Chief being the chief administrative officer of the Fire and EMS department reflects current job duties and job description. The Charter Review Commission also felt that it was important for the Fire Chief to resident close to the City in order to improve visibility and response time.

Proposed Change #10: SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.

Current Charter Language:

SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Freeport address.

Proposed Charter Language:

SECTION 6.04. VARIOUS PAPERS CONSTITUTING PETITION.

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than one hundred and eighty (180) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his Freeport address.

Proposed Ballot Language:

Proposition #10: Shall the Charter be amended to allow one hundred and eighty (180) days to submit signatures for a petition, which is consistent with State and Federal law?

Rationale for Change:

The Charter should be updated to be consistent with State and Federal law concerning the time allowed for signatures on a petition.

Proposed Change #11: SUBSECTION (d)(5) OF SECTION 8.03. PLANNING COMMISSION.

Current Charter Language:

SECTION 8.03. PLANNING COMMISSION.

- (d) Powers and Duties: The Commission shall have the power and shall be required to:
 - (5) Make, and recommend to the City Council for adoption, plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City;

Proposed Charter Language:

SECTION 8.03. PLANNING COMMISSION.

- (d) Powers and Duties: The Commission shall have the power and shall be required to:
 - (5) Make, and recommend to the City Council for adoption, plans for the clearance and rebuilding of substandard structures and blighted areas which may develop within the City;

Proposed Ballot Language:

Proposition #11: Shall the Charter be amended to remove the use of the word "slum districts" and replace with "substandard structures"?

Rationale for Change:

The use of the phrase “slum districts” is outdated and inappropriate. The Charter Review Commission recommends replacing that word with substandard structures, which the identification of same is part of the current duties of the Planning Commission.

Proposed Change #12: SECTION 11.02. PERSONAL INTEREST.

Current Charter Language:

SECTION 11.02. PERSONAL INTEREST.

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, nor shall be financially interested directly, or indirectly, in the sale to the City of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one percent (1%) of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the City shall render the contract voidable by the City Manager or the City Council.

Proposed Charter Language:

SECTION 11.02. PERSONAL INTEREST.

No officer or employee of the City shall participate in the deliberation, vote, or other decision on any matter involving a business entity or real property in which the officer or employee has a substantial interest as provided by Chapter 171 of the Texas Local Government Code. For purposes of this section, an officer or employee has a substantial interest in a business entity if:

- (1) the officer or employee owns 10 percent (10%) or more of the voting stock or shares of the business entity or owns either 10 percent (10%) or more or \$15,000 or more of the fair market value of the business entity; or
- (2) funds received by the officer or employee from the business entity exceed 10 percent (10%) of the person's gross income for the previous year.

An officer or employee has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. An officer or employee is prohibited from participating in the deliberation, vote, or other decision involving such real property if it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the real property, distinguishable from its effect on the public. An officer or employee is considered to have a substantial interest under this section if a person related to the officer or employee in the first degree by consanguinity or affinity, as determined under Chapter 573, Texas Government Code, has a substantial interest under this section.

Proposed Ballot Language:

Proposition #12: Shall the Charter be amended to update personal interest prohibitions to be consistent with Chapter 171 of the Texas Local Government Code?

Rationale for Change:

The Charter should be consistent with the conflicts of interest provisions of Chapter 171 of the Texas Local Government Code.

Proposed Change #13: SECTION 11.07. SPECIAL PRIVISIONS COVERING DAMAGE SUITS.

Current Charter Language:

SECTION 11. 07. SPECIAL PROVISIONS COVERING DAMAGE SUITS.

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone in his behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within thirty(30) days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of 180 days after the notice hereinbefore described has been filed with the City Manager or the person performing the duties of City Secretary, not later than two (2) years after the occurrence of the injury or damage to the property. In case of injuries resulting in death, before the City shall be liable in damages therefor the person or persons claiming such damages shall within thirty (30) days after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing therein contained shall be construed to mean that the City of Freeport waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, and Constitution and general laws of the State of Texas.

Proposed Charter Language:

SECTION 11. 07. SPECIAL PROVISIONS COVERING DAMAGE SUITS.

Before the City shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured, or whose property is damaged, or someone in his behalf, shall give the City Manager or the person performing the duties of City Secretary, notice in writing within six (6) months after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible, and giving the names and addresses of all witnesses upon whose testimony such person is relying to establish the injury or damage. No action at law for damages shall be brought against the City for personal injury or damage to property prior to the expiration of 180 days after the notice hereinbefore described has been filed with the City Manager or the person performing the duties

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended. In the event the United States Department of Justice should fail or refuse to pre-clear any proposed amendment to this charter which submitted to the voters at a charter amendment election and which is required by law to be pre-cleared by said department; and if at such election the majority of voters vote in favor of such proposed amendment, such proposed amendment shall nevertheless have no force and effect unless and until it has either been pre- cleared by said department or the validity of such proposed amendment has been established by the final judgment of a court of competent jurisdiction.

Proposed Charter Language:

SECTION 11.12. AMENDING THE CHARTER.

Amendments to this Charter may be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Local Government Code, as now or hereafter amended.

Proposed Ballot Language:

Proposition #15: Shall the Charter be amended to update the procedure for amending the Charter to be consistent with current State and Federal law?

Rationale for Change:

The City is no longer required to receive preclearance from the United State Department of Justice for proposed amendments to the Charter. This change updates this section to reflect current State and Federal law.

Proposed Change #16: SECTION 11.14. SUBMISSION OF CHARTER TO VOTERS.

Current Charter Language:

SECTION 11.14. SUBMISSION OF CHARTER TO VOTERS.

The Charter Commission in preparing this Charter finds and decides that it is impracticable to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to work and function, it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the said Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Freeport at an election to be held for that purpose on the 18th day of June, 1960. Not less than thirty (30) days prior to such election, the City Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City of Freeport as appears from the latest tax collector's roll. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City of Freeport, and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter, which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Texas

Secretary of State and shall show the approval of such Charter by majority vote of the qualified voters voting at such election.

Proposed Charter Language:

[delete section in its entirety]

Proposed Ballot Language:

Proposition #16: Shall the Charter be amended by removing this obsolete section concerning the initial submission of the Charter to voters for original approval?

Rationale for Change:

This section is obsolete and no longer needed.



City Council Agenda Item # 6

Title: Consideration and possible action to approve an ordinance ordering the Election for voter authorization to reassign parkland for May 6, 2023.

Date: February 6, 2023

From: Tim Kelty, City Manager

Staff Recommendation: Staff recommends council consider the recommended ballot initiative regarding the reassignment of Park Land, and approve the ordinance.

Item Summary: We are also proposing putting language on the ballot seeking voter authorization in regard to the transfer of the currently designated park land at the Highschool Baseball and softball diamonds to the ISD in connection to the land swap for OA Fleming, which would in part include park development in exchange

This is the formal action necessary to legally call the election to place this item before the voters

City Attorney David Olson has prepared the attached Election order for this measure.

Background Information: If approved this would allow the transfer between the City and BISD to take place from the stand point of state law. The other option we are also pursuing is special legislation that would need to be approved in Austin. We are seeking State Representative Code Vasut to carry this legislation for the City. If the ballot initiative passes we would not require the legislative action.

This action however will not clear up the Texas Department of Parks and Wild life restrictions on the property. We are also working with the ISD and Texas Parks and Wildlife to develop an adequate park swap to satisfy their requirements. If we want to reserve the bulk of the 9-block area of OA Fleming for single family residential development, TDPW may require additional property outside of the OA Fleming property be designated.

Special Consideration: If approved, ballot the ballot language shall be submitted to the voters in the manner provided by chapter 9 of the Local Government Code for the May 6th election.

Board or 3rd Party recommendation:

Supporting Documentation: Ordinance, Survey of Baseball/Softball Park to be swapped.

ORDINANCE NO. 2023-2688

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON A PROPOSED PARK LAND TRANSFER WITH BRAZOSPORT INDEPENDENT SCHOOL DISTRICT; DESIGNATING MAY 6, 2023, AS THE DATE OF THE ELECTION; DESIGNATING THE HOURS, ELECTION PRECINCTS AND POLLING PLACES; PROVIDING FOR THE ELECTION TO BE CONDUCTED BY BRAZORIA COUNTY; PROVIDING FOR NOTICE AND HOLDING OF THE ELECTION; PROVIDING FOR EARLY VOTING; AND RELATED MATTERS.

WHEREAS, the City of Freeport owns approximately 15.153 acres of land on the north side of West 2nd Street at Yaupon Street (herein called the "Softball Tract"); and

WHEREAS, the City leases said City Tract to Brazosport Independent School District ("BISD") for use as softball and baseball fields; and

WHEREAS, BISD owns approximately 30.9 acres of land at 431 West 4th Street that is the site of the abandoned O. A. Fleming Elementary School (herein called the "Elementary Tract"); and

WHEREAS, the City and BISD have entered into an agreement to transfer property interests in the Softball Tract and the Elementary Tract, to allow BISD to continue to use the Softball Tract as softball and baseball fields, and to allow the City to develop in part new recreational and/or park facilities on the Elementary Tract; and

WHEREAS, the City Council finds it in the best interest of the City and residents of Freeport to submit to the voters a proposition to allow the City to transfer its property interest in the Softball Tract to BISD and obtain property interest in the Elementary Tract to use in part for recreational and/or park purposes; and

WHEREAS, the City Council desires to contract with Brazoria County to hold and conduct the special election for the City, and such may be held as a joint election pursuant to the Joint Election Agreement and Contract for Election Services between the City and the County Clerk of Brazoria County, Texas, which is incorporated herein by reference;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, THAT:

Section 1. Special Election; Park Transfer and Development. A special election is ordered to be held on Saturday, May 6, 2023, between the hours of 7:00 a.m. and 7:00 p.m., for the purpose of submitting to the qualified voters of the City a proposition to allow the City to transfer its property interest in the Softball Tract to BISD and obtain property interest in the Elementary Tract to use in part for recreational and park purposes. The special election shall be held and conducted by Brazoria County, pursuant to a Joint Election Agreement and Contract for Election Services between the City and the County Clerk of Brazoria County, Texas, as authorized by State law, and such election may be held as a joint election. Early voting, both by personal appearance and by mail, will be conducted by the Brazoria County Election Officer, who is designated and appointed as the Early Voting Clerk, in accordance with the Tex. Elec. Code. Early voting shall begin on April 24, 2023, and end on May 2, 2023, such early voting to be conducted by the County Clerk of Brazoria County, Texas, between the hours of 8:00 a.m. and 5:00 p.m. at the following locations, from Monday, April 24, 2023, through Friday, April 28, 2023, and between the hours of 7:00 a.m. through 7:00 p.m. on Saturday, April 29, 2023, and from Monday, May 1, 2023 through Tuesday, May 2, 2023, at such locations, to-wit:

Angleton Main Location:	East Annex (Old Walmart Building) 1524 E. Mulberry, Angleton
Alvin Branch Location:	Alvin Library 105 S. Gordon, Alvin
Brazoria Branch Location:	Brazoria Library 620 S. Brooks, Brazoria
Freeport Branch Location:	Freeport Library 410 Brazosport Blvd., Freeport
Lake Jackson Branch Location:	Lake Jackson Civic Center 333 Hwy 332 East, Lake Jackson
Manvel Branch Location:	North Annex 7313 Corporate Dr., Manvel
Pearland East Branch Location:	Tom Reid Library 3522 Liberty Dr., Pearland
Pearland West Branch Location:	West Pearland Community Center 2150 Countryplace Pkwy., Pearland
Shadow Creek Branch Location:	West Pearland Library 11801 Shadow Creek Pkwy, Pearland

Sweeny Branch Location Sweeny Community Center
205 W. Ashley Wilson Road, Sweeny

West Columbia Branch Location: Precinct 4 Building 2
121 N. 10th St., West Columbia

Section 2. Proposition. Notice of the election shall be given and the election shall be held in compliance with Chapter. 9, Tex. Loc. Gov't. Code, and Section 4 of this Ordinance. The ballots for the special election shall comply with the Texas Election Code and be in the form provided by the City to Brazoria County for use on the voting devices and ballots used by the City; provided that the official ballot shall be prepared in such a manner as will permit the voters to vote "For" or "Against" the proposition submitted, with the proposition to be expressed on the official ballot in a form substantially as follows:

Proposition No. 1

Park Land Transfer and Future Development

Shall the City of Freeport be authorized to transfer its property interest in 15.1539 acres to Brazosport Independent School District to allow the District to continue to use the 15.153 acres for softball and baseball purposes so the District can donate 30.9 acres to the City to develop in part for new recreational and park purposes?

FOR _____ AGAINST _____

Section 3. Election Procedures. The Brazoria County Election Officer and his/her employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election in the manner provided by the Joint Election Agreement and Contract for Election Services, with the City and the law governing the holding of city charter elections by home rule cities of the State of Texas; and the official ballots, together with such other election materials as are required by the Texas Election Code, shall be prepared in both the English and Spanish languages and shall contain such provisions, markings and language as is required by law.

Section 4. Notice of Election.

(a) The Mayor of the City is hereby authorized and directed to issue a notice of said election, including a substantial copy of above and foregoing proposition, and to cause the same

to be posted in accordance with Section 4.003(a)(2) of the Election Code for at least twenty-one (21) days prior to the date named above for the holding of said election on the bulletin board used for posting notices of meetings of the City Council.

(b) The City Secretary of the City is hereby authorized and directed to cause a copy of such notice, including a substantial copy of above and foregoing proposition, to be published in a newspaper in accordance with Section 4.003(a)(1) of the Election Code, such publication to be at least ten (10) days before but not more than thirty (30) days before the date named above for the holding of said special election.

Section 5. Election Precincts and Polling Places. The election precincts for the election shall be the election precincts established by Brazoria County, provided that each shall contain and include geographic area that is within the City. The polling place for each such election precinct shall be the polling place established by Brazoria County for such election precincts in Brazoria County and voting by residents of the City. The polls shall remain open on the day of the election from 7:00 a.m. to 7:00 p.m. The returns for precincts in Brazoria County will be provided by precinct and the Brazoria County Election Officer shall tabulate and provide the election returns for the election.

Section 6. Joint Election. The City agrees to conduct a joint election with other political subdivisions within Brazoria County, provided that such political subdivision holds an election on May 6, 2023, in all or part of the same territory as the City (the "Political Subdivisions"). The joint election shall be conducted in accordance with State law, this Ordinance, and the Joint Election Agreement and Contract for Election Services with Brazoria County.

Section 7. Effective Date. This ordinance shall be effective immediately upon its passage and approval.

READ, PASSED AND APPROVED this 6th day of February, 2023.

Brooks Bass, Mayor,
City of Freeport, Texas

ATTEST:

Betty Wells, City Secretary,
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

David W. Olson, Interim City Attorney,
City of Freeport, Texas



City Council Agenda Item # 7

Title: Consideration and Possible action on Resolution for annual re-affirmation of Ordinance 2019-2567 establishing the City's ethics policy for all elected and appointed city officials and all city employees.

Date: February 6, 2023

From: Tim Kelty, City Manager

Staff Recommendation: Staff recommends review of the proposed ordinance and re-adoption following review and discussion.

Item Summary: The Ethics ordinance adopted by the City in 2019 requires annual review of that ordinance and action for re-affirmation.

The ordinance lays out specific ethical expectations for all individuals involved in Freeport Local Government, including all employees, all appointed board and committee members as well as elected officials. The precepts are very common sense in nature but ensures that everything is well spelled out.

Special Considerations:

The ordinance lists the purposes of the policy as follows

1. To encourage ethical conduct on the part of City officials and employees;
2. To encourage public service with the city
3. To establish standards for ethical conduct for city officials and employees by defining and prohibiting conduct that is incompatible with the interests of the city;
4. To require disclosure by city officials and employees of their economic interests that may conflict with the interest of the City; and
5. To serve as a basis for disciplining those who fail to abide by its terms.

A sixth and very important purpose of re-adopting the ordinance is to continue the effort of this council and administration to rebuild and reinforce the public trust.

Financial Impact: It is intended that this ordinance would protect the financial interests of the city as well as the City's overall integrity and reputation.

Board or 3rd Party recommendation: None

Supporting Documentation: Resolution, Ordinance

RESOLUTION NO. 2023-2778

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS TO EVIDENCE THE REVIEW OF ETHICS ORDINANCE 2019-2567, OBTAIN CONSENT OF THE CITY COUNCIL TO CONTINUE SAID ORDINANCE WITHOUT ANY CHANGES, AMENDMENTS OR DELETIONS; AND PROVIDING FOR A FINDING OF PROPER MEETING AND NOTICE.

WHEREAS, the City of Freeport, Texas, is a “Home Rule City” and a “Home Rule Municipality” lying and situated in Brazoria County, Texas, as described in and defined by Section 5, Article XI of the Constitution of Texas and Section 1.005 of the Local Government Code of Texas, respectively; and,

WHEREAS, Sections 51.072 and 342.011 of the Local Government Code of Texas and Sections 2.01, 2.02 and 3.07, Item (u), of the Home Rule Charter of the City of Freeport authorize the City Council thereof to adopt the provisions of an Ethics Ordinance; and,

WHEREAS, the proper operation of government requires that the all City Officials, including elected officers, appointed officers, boards and commission members, as well as employees be independent and impartial, and that governmental decisions and policy be made within the proper channels of the government structure; and

WHEREAS, the City adopted Ordinance #2019-2567 in February of 2019, establishing an ethics policy for all appointed or elected officials, board and commissions as well as City employees; and,

WHEREAS, that ordinance is required to be reviewed annually and considered for adoption; and,

WHEREAS, the intent of said Ethics Ordinance is to maintain a set of general principles and guidelines pertaining to ethical conduct, responsibility, and duty; and

WHEREAS, the City of Freeport desires to maintain said Ethics Ordinance to govern the actions of public officials and employees and to memorialize Freeport officials’ dedication and service to the citizens of the City; and

WHEREAS, it is important that the public have confidence in the integrity of its government; and

WHEREAS, a Motion was brought before the City Council to review and said Ethics Ordinance, entertaining any changes, additions or deletions to said ordinance, and allowing for discussion and debate.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS:

SECTION 1. The City council consents and approves to continue Ethics Ordinance 2019-2567 to remain in effect and continue without any changes.

SECTION 2. EFFECTIVE DATE. This resolution and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect on the date of passage and upon execution by the mayor and city secretary as set forth below.

SECTION 3. PROPER NOTICE AND MEETING. It is hereby found and determined that the meeting at which this resolution was passed was attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

Read, passed and adopted the _____ day of _____, 2023.

Brooks Bass, Mayor
City of Freeport, Texas

ATTEST:

Betty Wells, City Secretary
City of Freeport, Texas

APPROVED AS TO FORM ONLY:

David Olson, City Attorney
City of Freeport, Texas

AN ORDINANCE OF THE CITY OF FREEPORT, TEXAS, CONTAINING A PREAMBLE; BY ADDING TO TITLE IX OF THE CODE OF ORDINANCES OF THE CITY A NEW CHAPTER 100 ESTABLISHING AN ETHICS POLICY FOR ALL APPOINTED OR ELECTED OFFICIALS, BOARDS AND COMMISSIONS, AS WELL AS EMPLOYEES WHEN REPRESENTING THE CITY OR DOING BUSINESS FOR THE CITY IN ANY CAPACITY; REQUIRING THAT SUCH ORDINANCE BE REVIEWED ANNUALLY; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS ADOPTION BY CITY COUNCIL.

Whereas, it is important that the public have confidence in the integrity of its government; and

Whereas, the City of Freeport, Texas, is a "Home Rule City" and a "Home Rule Municipality" lying and situated in Brazoria County, Texas, as described in and defined by Section 5, Article XI of the Constitution of Texas and Section 1.005 of the Local Government Code of Texas, respectively; and,

Whereas, Sections 51.072 and 342.011 of the Local Government Code of Texas and Sections 2.01, 2.02 and 3.07, Item (u), of the Home Rule Charter of the City of Freeport authorize the City Council thereof to adopt the provisions of this Ordinance: and,

Whereas, the proper operation of government requires that the all City Officials, including elected officers, appointed officers, boards and commission members, as well as employees be independent and impartial, and that governmental decisions and policy be made within the proper channels of the government structure; and

Whereas, the intent of this ordinance is to establish a set of general principles and guidelines pertaining to ethical conduct, responsibility, and duty; and

Whereas, the City of Freeport desires to adopt said policy to govern the actions of public officials and employees and to memorialize Freeport officials' dedication and service to the citizens of the City; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS:

First, a new Chapter, to be known as Chapter 100, is hereby adopted and added to the Code of Ordinances of the City of Freeport, Texas, and shall read as follows:

"Chapter 100. CODE OF ETHICS

Part One - General Provisions

Section 100.01. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Benefit means anything reasonably regarded as economic gain or economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution to expenditure made and reported in accordance with law.

Board means a board, commission, or committee:

- (1) Which is established by city ordinance, charter, interlocal contract, or state law, or
- (2) Which serves as the board of a nonprofit development corporation that acts as an instrumentality of the city, and
- (3) Any part of whose membership is appointed by the city council, but does not include a board, commission, or committee which is the governing body of a separate political subdivision of the state.

City ("the City") means City of Freeport

Employee means a person employed and paid a salary by the city whether under civil service or not, including those individuals on a part-time basis, but does not include an independent contractor or the Mayor or city council members.

Fair and Equitable Standards means the intent of the City of Freeport to safeguard the rights of all citizens, to ensure that all citizen's actions are judged by fair and equitable standards, and to require that all rules are applied on an equitable basis.

Negotiating concerning prospective employment means a discussion between a city officer or employee and another employer concerning the possibility of the city officer or employee considering or accepting employment with the employer, in which discussion the city officer or employee responds in a positive way.

Officer or official means Mayor or any member of the City Council and any appointed member of a board, committee, or commission set up by ordinance, charter, state law or otherwise, on a regular basis, excluding those boards and commissions not operating under the direct authority of or subject to the direct control of the City Council.

Section 100.03. Purpose of the Ethics Policy.

(a) The code of ethics has five purposes:

1. To encourage ethical conduct on the part of city officials and employees;
2. To encourage public service with the city;
3. To establish standards for ethical conduct for city officials and employees by defining and prohibiting conduct that is incompatible with the interests of the city;
4. To require disclosure by city officials and employees of their economic interests that may conflict with the interests of the city; and
5. To serve as a basis for disciplining those who fail to abide by its terms.

(b) The code of ethics is not intended to be used as a political weapon or to intimidate or embarrass affected persons. The officials charged with administration of this code of ethics shall administer it in a manner that avoids any such use of this code of ethics.

(c) Ethics Policy Statement.

It is the policy of the city that all city officials and employees shall conduct themselves both inside and outside the city's service so as to give no occasion for distrust of their integrity, impartiality or devotion to the best interest of the city and the public trust which the city holds.

(d) It is further declared to be the policy of the city that the proper operation of democratic government requires that:

- (1) Officials and employees be independent, impartial and responsible;
- (2) Governmental decisions and policy be made using the proper procedures of the governmental structure;
- (3) No officer or employee have any financial interest, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest;
- (4) Public office is not be used for personal gain; and
- (5) All boards of the City are at all times to be maintained as a nonpartisan body.

(e) It is the policy of the City to uphold, promote, and demand the highest standards of ethical behavior from its Mayor, members of the City Council, employees, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups ("City Officials"). Honesty, integrity, fairness, and transparency of action are the hallmarks of public service in Freeport.

(f) Appearance of impropriety. Public service is a public trust. All city officials and employees are stewards of the public trust. They have a responsibility to the citizens of the city to administer and enforce the City Charter and city ordinances. To ensure and enhance public confidence in city government, each city official and employee must strive not only to maintain technical compliance with the principles of ethical conduct set forth in this article and in state law, but also to avoid the appearance of impropriety at all times.

(g) To implement this article, the city council has determined that it is advisable to enact this code of ethics for all officials and employees, whether elected or appointed, paid or unpaid, advisory or administrative, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms.

(h) Notwithstanding any other provision of this article, a member of the board of directors of a reinvestment zone established under the tax increment financing act, as amended, may:

- (1) Own property within that reinvestment zone; and
- (2) Participate in discussions and voting on matters before the board of directors that may directly or indirectly affect the member's property within the reinvestment zone.

Part 2 Administration

Section 100.10 Standards of conduct.

(a) An officer or employee of the city shall not:

- (1) Accept or solicit a benefit that might reasonable tend to influence the officer or employee in the discharge of his official duties.
- (2) Use his official position to secure special privilege or exemptions for himself or others.
- (3) Grant any special consideration, treatment or advantage to a person or organization beyond that which is available to every other person or organization. This shall not prohibit the granting of fringe benefits to city employees a part of their contract of employment or as an added incentive to the securing or retaining of employees.
- (4) Disclose information that could adversely affect the property of affairs of the city, or directly or indirectly, use any information understood to be confidential which was gained by reason of his official position or employment for his own personal gain or benefit or for the private interest of others.
- (5) Transact any business on behalf of the city in his official capacity with any business entity with which he is an officer, agent or member or in which he has a financial interest. In the event that such a circumstance should arise, then he shall make known his interest, and:
 - (i) In the case of an officer, leave the room during debate or hearing, refrain from discussing the matter at any time with the members of the body of which he is a member or any other body which will consider the matter and abstain from voting on the matter; or
 - (ii) In the case of an employee, turn the matter over to his superior for reassignment, state the reasons for doing so and have nothing further to do with the matter involved.

- (6) Personally provide services for compensation, directly or indirectly, to a person or organization who is requesting an approval, investigation, or determination from the body or department of which the officer or employee is a member. This restriction does not apply to outside employment of an officer if the employment is the officer's primary source of income.
- (7) Accept other employment or engage in outside activities incompatible with the full and proper discharge of his duties and responsibilities with the city, or which might impair his independent judgment in the performance of his public duty.
- (8) Personally participate in a decision, approval, disapproval, recommendation, investigation, or rendering of advice in a proceeding, application, request for ruling or determination, contract, claim, or other matter under the jurisdiction of the city, if the officer or employee is negotiating or has an arrangement concerning prospective employment with a person or organization which has a financial interest in the matter, and, in the case of an employee, it has been determined by the city manager that a conflict of interest exists. If an officer or employee begins negotiation or enters an arrangement concerning prospective employment with a person or organization that has a financial interest in a matter in which the officer or employee has been participating, the officer or employee shall:
 - (i) In the case of an employee, immediately notify the official responsible for appointment to his position of the nature of the negotiation or arrangement and, if the city manager or mayor determines that a conflict of interest exists, follow the instructions of the city manager or mayor with regard to further involvement in the matter; or
 - (ii) In the case of a board member, immediately notify the board of which he is a member the nature of the negotiation or arrangement and:
 - (a) Refrain from discussing the matter at any time with other board members or members of the city council if the city council will also consider the matter;
 - (b) Leave the room during debate hearing on the matter; and
 - (c) Abstain from voting on the matter; or
 - (d) In the case of the Mayor or a member of the city council, file an affidavit with the city secretary regarding the nature of the negotiation or arrangement and:

- (i) Refrain from discussing the matter at any time with other council members or members of a board that will consider the matter;
 - (ii) Leave the room during debate or hearing on the matter; and
 - (iii) Abstain from voting on the matter.
- (9) Receive any fee or compensation for his services as an officer or employee of the city from any source other than the city, except as may be otherwise provided by law. This shall not prohibit his performing the same or other services for a public or private organization that he performs for the city if there is no conflict with his city duties and responsibilities.
- (10) In the case of a member of the city council or an employee, personally represent, or appear in behalf of, the private interest of others:
- (i) Before the city council or any city board or department;
 - (ii) In any proceeding involving the city; or
 - (iii) In any litigation to which the city is a party.
- (11) In the case of a board member, personally represent or appear in behalf of, the private interests of others:
- (i) Before the board of which he is a member;
 - (ii) Before the city council;
 - (iii) Before a board which has appellate jurisdiction over the board of which he is a member; or
 - (iv) In litigation or a claim to which the city or an employee of the city is a party if the interests of the person being represented are adverse to the city or an employee of the city and the subject of the litigation or claim involves the board on which the board member is serving or the department providing support services to that board.
- (12) Use the prestige of his position with the city in behalf of any political party.
- (13) Knowingly perform or refuse to perform any act in order to deliberately thwart the execution of the city ordinances, rules or regulations or the achievement of official city programs.
- (14) Use city supplies, equipment or facilities for any purpose other than the conduct of official city business.

(15) Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the city or that reflects discredit upon the government of the city.

Section 100.11 - Exceptions

(a) The restrictions in this section do not apply to business associates of officers or employees, but only personally to the officers and employees themselves.

(b) The restrictions and requirements of subsection (a) (5) do not apply to an officer or employee of the city serving as a member of any board, commission, or other entity when transacting business on behalf of the city in an official capacity with that board, commission, or entity, if the officer or employee:

(1) Was appointed by the mayor, city council, or city manager to represent the city on the board, commission, or entity; and

(2) Has no financial interest in the board, commission or entity or in the business.

Section 100.12- Financial interests.

Any officer, whether elected or appointed, who has a financial interest in any matter that is pending before, or that might be considered by, the body of which the officer is a member shall:

(a) Disclose such interest to the other members of the body;

(b) Refrain from discussing the matter at any time with any other member of the body of which the officer is a member or with a member of any other body that might consider the matter;

(c) Leave the room during debate or hearing; and

(d) Refrain from voting on the matter.

Section 100.13 Political activities of officers.

(a) In elections other than for city council, a member of the city council may not:

(1) Use the prestige of the member's position with the city on behalf of a candidate;

(2) Solicit or receive contributions; or

(3) Serve as the designated campaign treasurer for a candidate as required by V.T.C.A. Election Code, ch. 14.

(b) In any election, a member of a city board, commission, or committee, whether governmental or advisory, may not:

(1) Use the prestige of the member's position with the city on behalf of a candidate;

(2) Serve as the designated campaign treasurer for a candidate as required by V.T.C.A. Election Code, ch. 14;

(3) Personally solicit or receive contributions for a candidate. A member, however, is not prohibited from serving on a steering committee to plan a program of solicitation and listing the member's name without reference to the office held when the committee as a whole is listed.

(c) Subsections (a)(1) and (b)(1) do not prohibit a member of the city council or of a board from lending the member's name in support of a candidate so long as the office held with the city is not mentioned in connection with the endorsement.

Section 100.14 Additional employment.

An employee of the city may accept outside employment if:

(a) The employment complies with the Personnel Policy Handbook; and

(b) The employment does not conflict with his duties as an employee of the city.

Section 100.15 Restrictions on contracting with the city or providing representation of others.

(a) An officer or employee in a position that involves significant reporting, decision-making, advisory, or supervisory responsibility who leaves the service or employment of the city may not, within 12 months after leaving that service or employment, represent any other person or organization in any formal or informal appearance:

(1) Before the city concerning a project for which the person had responsibility as a city officer or employee; or

(2) Before any other agency on a project for which the person had responsibility as an officer or employee.

(b) A former officer or employee who is subject to the requirements of subsection (a) shall, during the 24 months after leaving the service or employment of the city, disclose the officer or employee's previous position and responsibilities with the city when representing any other person or organization in any formal or informal appearance before a city agency.

(c) A member of the city council or an employee may not, within 12 months after leaving the service or employment of the city, either individually or as the officer or principal of a private business entity:

(1) Submit a proposal, on behalf of the member or employee or on behalf of a private business entity, to make any city contract that is not required by state law to be competitively bid;

(2) Negotiate or enter into any city contract that is not required by state law to be competitively bid; or

(3) Have or acquire any financial interest, direct or indirect, in any city contract that is not required by state law to be competitively bid.

Section 100.16 Limitations on employee political activity and on the holding of elective public office by an employee.

(a) An employee of the city immediately forfeits employment with the city if:

(1) The employee becomes a candidate for election to the city council;

(2) The employee becomes a candidate for nomination or election in a partisan election for public office within the county or in a partisan election for a public office, the constituency of which includes all or part of the county;

(3) The employee becomes a candidate for nomination or election to an elective public office where the holding of that office will conflict with the full and proper discharge of the employee's duties with the city; or

(4) A managerial or supervisory exempt city employee becomes a candidate for nomination or election to an elective public office of an entity having contractual relations with the city that involve the employee's department.

Section 100.17 Penalty for violation of article; appeals.

(a) The failure of any officer or employee to comply with this article or the violation of one or more of the standards of conduct set forth in this article, which apply to him, shall constitute grounds for all legal remedies provided by law which may include, if permissible, expulsion, reprimand, censure, removal from office, or discharge. In the case of a city council member, the matter shall be decided by a vote of two-thirds of the entire membership of the city council.

(b) The city council hereby adopts the following procedures to implement a censure policy:

(1) Two or more Elected City Officials may file a written notice of censure against another Elected City official with the City Secretary. The written notice shall set forth the allegation(s) of conduct which the accused Elected Official shall have allegedly violated. A copy shall be delivered to all elected members. A written response to the allegation(s) may be filed by the accused Elected Official ten days after receipt thereof. A copy of the notice of censure and response thereto shall be delivered to each Elected Official within two days after the response is filed.

(2) On the first regularly called meeting of the City Council, which complies with the Texas Open Meetings Act, after the filing of the notice and response, the City Secretary shall formally read the notice and response into the public record. The City Council, by majority vote, shall thereafter determine whether or not good cause shall exist to set a formal hearing on the merits of the notice of censure or dismiss the allegation(s). If it is determined, based upon the merits, a public hearing is required, a public hearing shall be set on the allegation(s) by the City Council. A vote to hold a public hearing shall not be construed to be a vote of censure.

(3) At a public hearing, the accused Elected Official has the right to be represented by legal counsel and present witnesses relative to the allegation(s).

(4) A public hearing on the allegation(s) and response shall be held at either a regular or special called meeting of the city council, which shall be open to the public.

(5) At a public hearing, the City Council will hear evidence concerning the notice of censure. The Elected Officials proffering the charges shall present evidence in support of the allegation(s) contained in the notice of censure. The Elected Official who is the subject of the censure shall have the opportunity to present evidence to support his or her position with respect to the notice of censure. After receiving evidence at an open public meeting, the city council shall then take a roll-call vote, after motion duly made and seconded, two-thirds of all members of the City Council shall be required to sustain the censure of the council member.

(c) In the case of an employee of the city, disciplinary action and appeals therefrom shall be in conformance with procedures established by the city charter and personnel rules and regulations.

(d) In the case of members of boards or committees, the matters shall be decided by a majority vote of the city council.

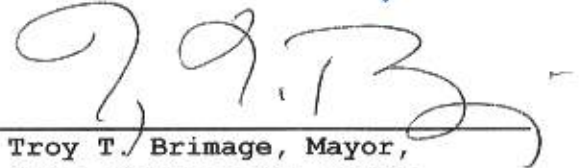
(e) The decision of the bodies authorized to hear violations shall be final in the absence of bias, prejudice or fraud.

Section 100.18 Annual Review and Re-adoption

This ordinance must be reviewed by the City Council on or before each anniversary of its adoption and may be amended at anytime.

Second, this ordinance shall take effect and be in force from and after its adoption.

READ, PASSED AND ADOPTED this 19th day of February, 2019.




Troy T. Brimage, Mayor,
City of Freeport, Texas

ATTEST:



Laura Tolar, Assistant City Secretary
City of Freeport, Texas

APPROVED AS TO FORM ONLY:



Wallace Shaw, City Attorney,
City of Freeport, Texas

C:\Freeport\Ethics Policy-Ord



City Council Agenda Item # 8

Title: Consideration and possible action approving amendment #1 to Freese and Nichols Task Authorization #17 for engineering Services for lift stations #3, 4, & 14.

Date: February 6, 2023

From: Tim Kelty, City Manager

Staff Recommendation:

Staff recommends approving of the amendment.

Item Summary:

This amendment to Task Authorization #17 with Freese and Nichols will allow for the provision of necessary additional design services for the rehabilitation of Lift Stations 3, 4, & 14. During the design phase it was recommended to move forward with submersible pumps instead of self-priming pumps, which also required work on the wet well slab to accommodate this change. Additionally, a power system study was required and materials testing during construction is needed.

Background Information:

The City of Freeport approved Task authorization #17 with Freese and Nichols for the engineering and design for rehabilitation of Sanitary Sewer lifts stations #3, 4, &14 in July of 2021. A construction contract was awarded to CFG Industries for the work in April of Last year. Supply chain issues had delayed delivery of necessary equipment for the project, but equipment is now in hand and the project is moving forward.

Special Considerations

None

Financial Impact:

The cost of this amendment is \$35,833.80.

Board or 3rd Party recommendation:

None

Supporting Documentation:

Amendment # 1 to task authorization #17



MASTER PROFESSIONAL SERVICES AGREEMENT
TASK AUTHORIZATION
AMENDMENT #1

CITY OF FREEPORT, TX
200 WEST 2ND STREET
FREEPORT, TX 77541

FNI PROJECT NO. FRE21501

DATE: 3/25/2022

Project Name: Lift Station No. 3, 4, & 14 Rehab

Description of Services: Freese and Nichols, Inc. (FNI) provided additional design services for the rehabilitation of Lift Stations No. 3, 4 and 14 for the City of Freeport (City). During the design phase City decided to move forward with submersible pumps instead of self-priming pumps, additional work was required on the wet well slab to accommodate for this change. A site visit was conducted during design and City identified other items in poor condition to be included to the scope.

ARTICLE I

TASK A: FINAL DESIGN

1. Lift Station Rehab Design - FNI prepared drawings, specifications, and construction contract documents of the proposed improvements beyond the original scope including:
 - New light pole for Lift Station No. 3
 - New concrete driveway for Lift Station No. 3
 - New gravel driveway for Lift Station No. 4 and 14
 - Site grading and drainage improvements for Lift Station No. 14
 - Removal and replacement of wet well concrete slab for Lift Station No. 3, 4 & 14. This revision was driven by the conversion of the lift station from self-priming to a submersible lift station.
 - Additional electrical improvements at Lift Station No. 3
 - Electrical improvements for Lift Station No. 3, 4 & 14
 - Removal of manual transfer switch (plans and specs)
 - Added automatic transfer switch (ATS) (plans and specs)
 - Updated electrical rack configuration to incorporate changes
 - Run power to generator battery charger and jacket water heater.
 - Additional electrical improvements at Lift Station No. 3. City made electrical improvements to LS No. 3. FNI re-designed electrical improvements to work with the upgrades made to the facility.

TASK B: BID PHASE

Upon completion of the design services and approval of "Final" drawings and specifications by City, FNI provided professional services in this phase as follows:

- Modifications to the drawings/specifications for Alternate bid item adjustments.

TASK E: POWER SYSTEM STUDIES

Power system studies for Lift Station No. 3, 4 and 14 will be performed by Strategic Engineering. The study will provide short-circuit, protective device coordination, arc flash, load flow, and motor starting studies. Strategic Engineering will furnish printed arc flash labels for installation by the contractor.

Compensation shall be as follows: A lump sum amount of Thirty-Three Thousand Eight Hundred Fifty-Five Dollars.

Task Authorization Amount: \$ 33,855.00


FNI shall perform the proposed scope of services based on rates based on those set in the Master Agreement. FNI proposes to conduct the design amendment of Lift Station No. 3, 4 & 14 Rehab for a lump sum fee of \$33,855. A breakdown of the fee by task is the following:

City of Freeport Lift Station No. 3, 4 & 14 Rehabilitation Amendment No. 1 Summary of Fee by Task	
TASK A: FINAL DESIGN	\$28,036
TASK B: BID PHASE	\$504
TASK E: POWER SYSTEM STUDIES	\$5,315
Project Total	\$33,855

The above described services shall proceed upon execution of this amendment. All other provisions, terms and conditions of the Master Professional Services Agreement which are not expressly amended shall remain in full force and effect.

FREESE AND NICHOLS, INC.

CITY OF FREEPORT, TX

BY: 

Jared Barber
Print Name

BY: _____

Print Name

TITLE: Associate

TITLE: _____

DATE: 3/29/2022

DATE: _____

Strategic Engineering

March 7, 2022

Courtney Carroll
Freese and Nichols, Inc.
Electrical Group
801 Cherry St., Suite 2800
Fort Worth, TX 76102

Re: Proposal for Power System Studies
City of Freeport Lift Stations 3, 4, & 14

Our scope of work is to perform the power system studies for Lift Stations 3, 4, and 14. We will provide short-circuit, protective device coordination, arc flash, load flow, and motor starting studies. We will furnish printed arc flash labels for installation by the contractor.

Power Studies

\$ 4,500.00

Sincerely,



Jeff Wilbanks, P.E., Texas #87081

Texas Engineering Firm F-003625
408-B Interchange Street
McKinney, TX 75071
Phone: 214-679-0092 Fax: 972-542-7097



City Council Agenda Item # 9

Title Consideration and possible action approving Task Authorization #22 with Freese and Nichols for Phase 1 Lead and Copper Inventory and Compliance Plan.

Date: February 6, 2023

From: Tim Kelty, City Manager

Staff Recommendation:

Staff recommends approval of this task authorization.

Item Summary:

In preparation to comply with Federally mandated Lead and Copper rules, Freese and Nichols will conduct the inventory and prepare the required report to move the City toward compliance.

Freese and Nichols will work with staff on a long list of tasks to accomplish the following Objectives:

- Assess availability and content of the records required for creating a service line material inventory (SLM Inventory).
- Create initial inventory based on two primary records sources: existing accounts records, and county parcel data.
- Develop data collection tool for meter visual inspections and a standard operating procedure (SOP) to enable the City to begin identification of service line materials within the meter box.
- Develop compliance schedule and planning-level budget to come into compliance with LCRR requirements.
- Support the City in applying for funding through the Texas Water Development Board.

Background Information:

The U.S. Environmental Protection Agency (EPA) released Lead and Copper Rule Revisions (LCRR) on Jan. 15, 2021, setting new standards aimed at removing harmful levels of lead and copper from drinking water. The LCRR went into effect on December 16, 2021 with the compliance date of October 16, 2024. This revision will

require cities and other water utilities to take significant action to protect customers from the health risks associated with lead and copper in order to comply with the LCRR.

Special Considerations: This is a 180-day effort following approval of this task authorization. Additional action will be required by the city following the completion of this assessment and report.

Financial Impact: The cost of this effort is \$70,196.

Board or 3rd Party recommendation: None

Supporting Documentation: Task Authorization



PROFESSIONAL SERVICES AGREEMENT – ATTACHMENT A
TASK AUTHORIZATION #22

City of Freeport
City Hall
200 West 2nd Street
Freeport, TX 77541

FNI PROJECT PROJECT/PHASE/TASK
DATE: 11/29/2022

This authorization is in accordance with the terms and conditions outlined in the Extended Master Agreement executed on June 21, 2021 and expires on June 30, 2022.

Project Name: Lead and Copper Rule Revision Compliance Support – Initial Desktop Inventory and Compliance Plan

Description of Services: Services are described in Attachment B.

Deliverables: Spreadsheet Inventory matching TCEQ’s format
Meter Inspection Tool
Compliance Plan Memo

Schedule: Completion of the Lead and Copper Rule Initial Desktop Inventory and Compliance Plan – 180 Days

Compensation shall be: FNI shall perform the proposed scope of services based on Terms and Conditions and Rates set in the Master Agreement. FNI proposes to complete the proposed services for a lump sum fee of \$70,196.

All other provisions, terms and conditions of the Professional Services Agreement which are not expressly amended shall remain in full force and effect.

FREESE AND NICHOLS, INC.

CITY OF FREEPORT, TEXAS

BY:  _____

BY: _____

Charles M. Wolf, D.Eng, PE, BCEE
Print Name

Print Name

TITLE: Principal / Vice President

TITLE: _____

DATE: 11/29/2022

DATE: _____

SCOPE OF SERVICES AND RESPONSIBILITIES OF CLIENT

CITY OF FREEPORT LEAD AND COPPER RULE REVISION COMPLIANCE SUPPORT INITIAL DESKTOP INVENTORY AND COMPLIANCE PLAN

Project Background and Understanding

The U.S. Environmental Protection Agency (EPA) released Lead and Copper Rule Revisions (LCRR) on Jan. 15, 2021, setting new standards aimed at removing harmful levels of lead and copper from drinking water. The LCRR went into effect on December 16, 2021 with the compliance date of October 16, 2024. This revision will require cities and other water utilities to take significant action to protect customers from the health risks associated with lead and copper in order to comply with the LCRR.

The following scope and fee are proposed to support the City of Freeport in preparing for the LCRR by constructing the first major deliverable, an initial desktop inventory, and then providing a compliance plan: schedule and budget to come into compliance with the LCRR by the compliance deadline of October 16, 2024 and maintain compliance moving forward. Additional effort will be needed to achieve full compliance with the LCRR, which the City may achieve through FNI, in-house resources, or others.

Scope of Work

Objectives:

- Assess availability and content of the records required for creating a service line material inventory (SLM Inventory).
- Create initial inventory based on two primary records sources: existing accounts records, and county parcel data.
- Develop data collection tool for meter visual inspections and a standard operating procedure (SOP) to enable the City to begin identification of service line materials within the meter box.
- Develop compliance schedule and planning-level budget to come into compliance with LCRR requirements.
- Support the City in applying for funding through the Texas Water Development Board.

TASK 1 – Project Management and Meetings

1. Project Management: Provide planning, monitoring and control of the project for four (4) months, as well as team coordination and project administration.
2. Quality Assurance and Quality Control: Provide Quality Assurance and Quality Control (QA/QC) review of the data collected, planning and documentation. FNI's Senior Advisor will provide project guidance and review of all deliverables.

3. Meetings:
 - a. Kickoff Meeting: Prepare for and attend one (1) project kickoff meeting. The kickoff meeting will be held in person to confirm scope, schedule and budget, anticipated project schedule, and communicate overall project expectations.
 - b. Progress Meetings: Conduct up to (6) bi-weekly progress meetings to be held bi-weekly or monthly with the City. Meetings may be held virtually or in person.
4. Task Deliverables:
 - a. Meeting agendas
 - b. Meeting minutes
 - c. Anticipated project schedule
 - d. Invoices

TASK 2 - Records Review

1. Collect and review records listed in 141.84(a)(3) of the LCRR as information a utility must review when conducting a lead service line (LSL) inventory.
 - a. Assess and record the content and quality of the data sources for the SL inventory. Develop questions to ask to City and county. This information will be used to identify supporting datasets to be reviewed and incorporated into the completed desktop inventory.
 - b. The records include: City meters data, accounts data, parcel data, GIS shapefiles, master plans, tap cards, meter installation records, inspection records, codes, SOPs, permits, and other historic records.
2. Hardcopy records review: FNI will review up to 15% of documents provided in hard copy or image form, to assess content and develop an SOP and basic training for the City to use in completing the review of these records.
3. FNI will use up to two (2) of the progress meetings to discuss observations, ask questions, discuss additional potential resources for inventory records.
4. Review historical lead and copper monitoring results for single detection and 90th percentile results that exceed LCRR trigger and action levels. Information from this review will be used to develop a budget and schedule for LCRR preparation activities as a part of Task 5.
5. Deliverables from this task include:
 - a. File listing each required record, the availability, content, potential additional resources, and other notes pertinent to the use of the records in the service line material inventory.
 - b. SOP for completing review of hardcopy records.

TASK 3 – Initial Inventory

1. FNI will conduct a desktop assessment of the accounts database and county parcel data, collected during Task 2.
2. *Initial Desktop Service Line Inventory*: An initial inventory of service lines will be developed utilizing the TCEQ SLM Inventory Template.
 - a. The level of effort for this task only includes using the accounts data and parcel data to develop

an initial inventory showing which water accounts have construction dates prior to the lead-ban. Evaluation and incorporation of the other datasets reviewed in Task 2, is outside the scope of this proposal, and will be included in the budget and schedule for remaining LCRR preparation in Task 5.

- b. The inventory will be populated using the data available from the datasets and will include, at a minimum: address, public side service line material, and private side service line material. Where information is unavailable, a value of "Unknown" will be assigned.
- c. The inventory will be reviewed with the City
 - 1) A meeting will be coordinated to review the results of the initial inventory, and identify any remaining steps required to prepare the inventory for submittal.
 - 2) FNI will address one (1) round of City comments and then finalize the inventory
3. Deliverables for this task include:
 - a. Spreadsheet inventory in TCEQ's template
 - b. Meeting minutes

TASK 4 – Meter Inspection Tool

Per the EPA Guidance, visual inspection at the meter box can be used to generate water system records and update the SLM Inventory. FNI will develop an SOP and tools to enable the City to begin conducting and recording inspections in the meter box, to be included in the service line inventory.

1. Data collection tool: Develop a template inspection form for recording observations of meter box inspections. The form will be created in a readily available web-based platform, such as Google Docs, to allow the data to be updated in real time as it is updated in the field.
2. Standard Operating Procedure (SOP): Develop a SOP for field inspection of service lines within the meter box; including cleanout, pipe material identification, identification of lead solder, record keeping, and reporting.
3. Task Deliverables:
 - a. Data collection tool for meter inspections in the field and updating the inventory.
 - b. Standard of Operation (SOP) for inspection of meter boxes.

TASK 5 – Develop Compliance Plan

1. Based on the information gathered in Tasks 2 and 3, FNI will provide recommendations for planning and completing remaining deliverables and major LCRR compliance activities.
2. Dates and descriptions of future deliverables and LCRR compliance activities will be included in the recommendations:
 - a. Completion of the SLM Inventory using all required data sources
 - b. Verification of unknowns in the SLM inventory to meet the City's goals
 - c. Updated Sampling Plan
 - d. Lead Service Line Replacement Plan
 - e. Preliminary Sampling
 - f. Schools outreach and sampling coordination plan
 - g. Find-and-fix plan

- h. Public outreach plan
 - i. Corrosivity Study
 - j. Risk study to estimate likelihood for lead service lines,
 - k. Cost estimates for potential LSLR program or proactive mitigation, and
 - l. A plan for quality control, and oversight of LCRR activities listed above
3. FNI will develop compliance schedule and planning-level budget for each activity listed in item 2, above.
 4. One (1) meeting will be held to review the recommended schedule, budget, and funding opportunities and receive input from the City.
 5. Completion of Technical Memorandum
 - a. A Technical Memorandum will be developed summarizing the schedule and budget developed in this task.
 - b. FNI will furnish the City with five (5) hard copies and one (1) PDF copy of all sections of the draft Technical Memorandum for review.
 - c. FNI will address one (1) round of the City's comments and will prepare three (3) hard copies of the final Technical Memorandum in print and one (1) copy in PDF format for the City.
1. Task Deliverables:
 - a. Meeting Minutes from the review of the schedule, budget and funding opportunities.
 - b. One (1) electronic and three (3) hard copies of the final Technical Memorandum.

TASK 6 – Funding Support

FNI will assist the City in applying for funding in the form of low interest loans and/or grants through the State's Revolving Fund. FNI will provide the following assistance:

1. Pre-application
 - a. The City will provide FNI any data needed to complete the Project Information Form (PIF).
 - b. FNI will prepare the PIF and submit it to the State on behalf of the City.
 - c. FNI will assist the City in responding to any requests for information from the State.

Designated Representatives

FNI and the City designate the following representatives:

City's Designated Representative: Lance Petty
Public Works Director
City of Freeport
200 W 2nd St
Freeport, TX 77541
(979) 233-3526
LPetty@Freeport.tx.us

FNI's Designated Representative: Julie Huerta, P.E.
11200 Broadway St., Ste 2320
Pearland, TX 77584
(832) 541-7229
Julie.Huerta@freese.com

FNI's Accounting Representative: Kristina Isaac
10497 Town and Country Way, Suite 600
Houston, TX 77024
(716) 600-6860
Kristina.Isaac@freese.com

Time of Completion

FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in six (6) months from Notice to Proceed. If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in City or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. Such delays may result in an adjustment to compensation listed below.

Compensation

The following is the breakdown of the proposed fees for the tasks presented in this Scope.

TASK	FEE	COMPENSATION TYPE
Task 1 –Project Management & Meetings	\$9,350	Lump Sum
Task 2 – Records Review	\$8,053	Lump Sum
Task 3 - Initial Desktop Inventory	\$20,676	Lump Sum
Task 4 – Meter Inspection Tool	\$9,408	Lump Sum
Task 5 - Develop Compliance Plan	\$14,686	Lump Sum
Task 6 – Funding Support	\$8,023	Lump Sum
Total Fee	\$70,196	



City Council Agenda Item # 10

Title Consideration and possible action approving a Resolution of Support for State of Texas Funding of proposed levee and drainage improvements intended to protect Brazosport residents and business from the devastating impacts of Hurricanes.

Date: February 6, 2023

From: Tim Kelty, City Manager

Staff Recommendation:

Staff recommends Council adopt this resolution.

Item Summary:

This resolution endorses and requests for the funding commitment from the State of Texas through its General Land office, for important matching funds for the proposed levee and drainage improvements currently being planned through collaboration of the Velasco Drainage District and the Army Corps of Engineers.

Background Information:

The U.S. Army Corps of Engineers Working in collaboration with the Velasco Drainage district have approved a \$700+ million project to rehabilitate the levee and pump system in and around Freeport and the Brazosport area. While federal funding for the project has been appropriated, the VDD currently is responsible for a 35% local match equating to over \$246 million.

Originally GLO said they would provide the local match but later came back and only appropriated \$20 million.

The Velasco Drainage District is seeking resolutions of support for this funding from all effected Cities and local government agencies along with letters from support from industry.

Special Considerations: This effort has the support of Representative Vasut, but there will be additional opportunity to voice support at the upcoming Brazoria County in Austin on February 28th.

Financial Impact: While the City itself will not be on the hook for any of this cost, its residents along with all the taxpayers of the District would have to foot the bill for

a Bond if the State does not fulfill its earlier commitment to participate to a greater degree financially.

Board or 3rd Party recommendation: This action is being requested by the Velasco Drainage District.

Supporting Documentation: Resolution.

RESOLUTION NO. 2023-2779

AN RESOLUTION OF THE CITY OF FREEPORT, TEXAS URGING THE STATE OF TEXAS TO PROVIDE FUNDING FOR HURRICANE PROTECTION FOR THE PEOPLE AND COMMERCE IN BRAZORIA COUNTY, TEXAS.

The City Council of the City of Freeport, Texas ("the City") finds that the following facts are true, and this resolution is based on these facts:

1. The City of Freeport is grateful for the support provided by the State of Texas in recent years to improve storm and flood protection along the Texas coast.
2. Toward that end, Velasco Drainage District (VDD) is constructing the congressionally authorized Freeport and Vicinity Hurricane Flood Protection Project (Freeport HFPP), together with the U.S. Army Corps of Engineers.
3. The industrial complex in VDD is the life blood of the local economy and a significant contributor to the economy of Texas as a whole. The taxable value in just VDD, which is in the southern portion of Brazoria County, exceeds \$10 billion, and the actual value, including abated and exempt values, is more than \$25 billion. County wide, the taxable value is over \$65 billion, with the actual value exceeding \$75 billion. Obviously, those values are worth protecting.
4. Brazoria County is also growing rapidly. According to U.S. Census estimates, the population has increased by 46 percent since 2000 to almost 400,000. By 2040, Brazoria County is expected to have 600,000 residents.
5. Those people and industrial developments are vulnerable to tropical storms, and 100 percent of the county is in the hurricane evacuation zone. An estimated 20 percent of county residents live in the 100-year floodplain. Enhancing both our storm protection and interior drainage is essential to urgent life safety and economic growth needs.
6. Accordingly, VDD executed a Project Partnership Agreement (PPA) with the Corps of Engineers on March 16, 2021, for the Freeport HFPP. Under that agreement, VDD's 35% share of project costs is \$246,446,900. As VDD does not have funds to meet the required share of project costs, the City understands that VDD committed to the PPA with the Corps of Engineers only after obtaining a Local Cooperation Agreement with the Texas General Land Office (TXGLO) for State funding for VDD's quarter-billion dollar obligation for the Freeport HFPP.
7. The 86th Legislature appropriated \$200 million to the TXGLO to provide state matching funds for Corps of Engineers projects in Texas. From those funds, the TXGLO allocated \$20 million to VDD, which enabled VDD to execute the PPA with the Corps and initiate the Freeport HFPP.
8. The City understands that VDD will require an additional \$226,446,900 to meet its required share of project costs.

9. However, the 87th Legislature did not allocate any funds for the Freeport HFPP. Moreover, the City understands that the State might not intend to provide any further funding for the Freeport HFPP, although we understand that VDD entered into its quarter-billion-dollar obligation on that project in reliance on the Local Cooperation Agreement with the TXGLO for that funding. The City believes that such appropriations should be provided, considering VDD's reliance on such funding and the extreme importance of this project.

10. The Legislature's decision on funding the Freeport HFPP will affect the economy of Texas as a whole and will have a massive economic impact on the hundreds of thousands of people and the industries in Brazoria County.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS
HEREBY RESOLVES AS FOLLOWS:**

The City of Freeport respectfully urges the State of Texas to appropriate funds for Velasco Drainage District's obligation on the Project Partnership Agreement for the Freeport Hurricane and Flood Prevention Project pursuant to the Local Cooperation Agreement with the Texas General Land Office.

READ, PASSED, and ADOPTED on this date: _____.

CITY OF FREEPORT, TEXAS

By: _____
BROOKS BASS, MAYOR

ATTEST:

BETTY WELLS, CITY SECRETARY



City Council Agenda Item # 11

Title: Consider Adopting a Resolution to adopt and a approve the Policy and procedures for repairs and maintenance of vehicles and equipment

Date: February 6, 2023

From: Cathy Ezell, Finance Director

Staff Recommendation:

Staff recommends the adoption of the Resolution to adopt the policy and procedures for repairs and maintenance of vehicles and equipment, accordingly.

Item Summary:

This policy formalizes the procedures for repairs and maintenance of vehicles and equipment.

Background Information:

It is the policy of the City of Freeport to keep all vehicles and equipment in good, safe working condition in order to efficiently and effectively complete the job task and ensure the safety of the employees and others. The City is now required to have a policy for repairs and maintenance of vehicles and equipment for applying for various grants. This policy will formalize what is currently being done.

Special Considerations:

N/A

Financial Impact:

N/A

Board or 3rd Party recommendation:

N/A

Supporting Documentation:

Resolution with Exhibit

RESOLUTION # 2023-2780

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREEPORT, TEXAS, APPROVING AND ADOPTING POLICY AND PROCEDURES FOR REPAIRS AND MAINTENANCE OF VEHICLES AND EQUIPMENT FOR THE CITY OF FREEPORT; PROVIDING FOR INCORPORATION OF PREAMBEL AND AN EFFECTIVE DATE.

WHEREAS, the City is in the need to designate procedures to keep all vehicles and equipment in good, safe working condition; and

WHEREAS, it is necessary to designate procedures to ensure the safety of employees and others: and

WHEREAS, the proposed Policy and procedures for repairs and maintenance of vehicles and equipment, a copy of which is attached her to as Exhibit "A", provide guidance for the repairs and maintenance of vehicles and equipment; and

WHEREAS, the City Council finds that the proposed Policy and procedures for repairs and maintenance of vehicles and equipment should be approved.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNIL OF THE CITY OF REEPORT:

Section 1. The facts and statements contained in the preamble are hereby found to be true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. The Policy and Procedures for Repairs and Maintenance of vehicles and equipment attached hereto as "Exhibit A" is hereby adopted as the Proccdures for Repairs and Maintenance of vehicles and equipment of the City of Freeport.

Section 3. This Resolution shall become effective immediately upon its passage.

DULY PASSED, APPROVED AND ADOPTED on this the 23rd day of June 2023.

Brooks Bass, Mayor
City of Freeport, Texas

ATTEST:

Betty Wells, City Secretary
City of Freeport, Texas

APPROVED AS TO FORM AND CONTENT:

David Olson, City Attorney
City of Freeport, Texas

**POLICY AND PROCEDURES
FOR
REPAIRS AND MAINTENANCE
OF
VEHICLES AND EQUIPMENT**

January 23, 2023

Policy: It is the policy of the City of Freeport to keep all vehicles and equipment in good, safe working condition in order to efficiently and effectively complete the job task and ensure the safety of the employees and others. It is the responsibility of the driver of any vehicle or piece of equipment to complete a Work Order when the driver of any said vehicle or equipment detects any malfunction of the vehicle or equipment or if regular maintenance is required. Emergency Response Vehicles along with mechanical malfunctions which pose a safety concern will be given top priority when scheduling repairs. Other vehicles and equipment will be scheduled based on need and importance of the mechanical repair or maintenance. Funds will be made available in accordance with the City's budget to keep an essential piece of equipment or vehicle working properly. Repairs for minor mechanical malfunctions and maintenance will be addressed as time and funds allow. Failure to comply with this policy will result in disciplinary action up to and including termination.

Procedure: The following procedures should be adhered to in order to comply with this policy:

- a. Whenever the driver of a vehicle or user of equipment detects a safety or mechanical malfunction, it is the responsibility of this person to complete a Work Order Form detailing the malfunction as soon as possible. The Work Order Form should always be completed no later than the end of the work day in which the malfunction was detected.
 - 1) If a safety or mechanical malfunction (including low fluids) the driver must notify the Department Head or Supervisor immediately. The Department Head or Supervisor must determine if the vehicle or equipment can be operated safely at this time.
- b. If it is time for scheduled maintenance the driver of a vehicle or user of the equipment must complete a Work Order Form, also.
- c. The completed Work Order Form will then be given to his Department Head or Supervisor.
- d. The Department Head or Supervisor will review the work order form to ensure accuracy.
- e. Once the Department Head or Supervisor approves the Work Order form, it will be given to the Mechanic. The Mechanic will determine whether or not the vehicle should be driven or equipment should be used. If he determines that the

vehicle should not be driven or the equipment not be used then they will not be driven or used.

- f. The Mechanic will present the Department Head or Supervisor with a cost estimate and the priority for the repairs. The Department Head or Supervisor will verify the funding before he gives the Mechanic permission to proceed with the repairs.
- g. Once the repairs are complete the vehicle or piece of equipment may be placed back into service.
- h. The Mechanic will present a monthly report to the Assistant City Manager/Public Works Director that must contain at least the average time a vehicle and equipment are out of service, the average man hours used to service vehicles and equipment, and the number of vehicles and equipment serviced.
- i. Any person who knowingly does not comply with this policy will be subject to disciplinary action up to including termination in accordance with the City's Personnel Policies and Procedures.

Attached to this policy are the checklists that need to be completed on a daily and/or monthly basis by type of vehicle/equipment. Also attached is the work order form that must be completed throughout the repair process.

All Departments Backhoe Checklist

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires (Front 60lbs & Rear 30lbs) _____

Motor oil _____

Hydraulic oil _____

Water _____

Grease _____

Weekly:

Grease _____

Wash _____

Fill with Fuel _____

Check oil changes (hours) _____

Monthly:

Steam Wash _____

All Departments Kubota Tractor/Shredder/Tiller Checklist

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires (Front 60lbs & Rear 30lbs) _____ Motor oil _____

Hydraulic oil _____ Water _____

Grease _____

Wash after each use.

Monthly:

Steam Wash _____

Check oil service tag (hours) _____

Street Department Boom Mower

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires (Front 60lbs & Rear 30lbs) ____

Motor oil ____

Hydraulic oil (Tractor & Mower) ____

Hose leaks ____

Gear box (oil/grease) ____

Grease (Tractor & Mower) ____

Wash after each use.

Monthly:

Steam Wash ____

Check oil service tag (hours) ____

Street Department Roller/Broom

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires ____

Motor oil ____

Fill with fuel ____

Water ____

Grease ____

Monthly:

Steam Wash ____

Check oil service tag (hours) ____

Water Air Compressor/Pumps/Trenchers/Bore Machine/Small Gasoline Engines

DATE: _____

Weekly:

Start & run to charge ____

Battery and/or clean carburetor ____

Fill with fuel ____

Check fluids before starting ____

Monthly:

Every two (2) months drain & replace fuel if not used ____

All Departments Dump Trucks

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires at 100 lbs ___

Water ___

Lights working ___

Air tank drain ___

Motor oil ___

Hydraulic oil ___

Horn working ___

Check bed for debris ___

Wash if needed ___

Monthly:

Steam Wash ___

All Departments Haul Truck/Trailer

DATE: _____

Daily:

Tires at 100 lbs ____

Motor oil ____

Lights working ____

Fill with fuel ____

Horn working ____

Grease (Fifth Wheel) ____

All Departments Pickup Trucks

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires ____

Water ____

Lights working ____

Clean interior ____

Motor oil ____

Horn working ____

Check service sticker ____

Monthly:

Soap & brush wash ____

Transmission oil ____

All Departments Dozer/Excavator/Mini-Excavator

DATE: _____

Daily:

Grease ____

Motor oil ____

Hydraulic oil ____

Fuel ____

Monthly:

Wash ____

Annually:

Steam wash ____

Check service tag (hours) ____

All Departments Cars/SUV's

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires ____

Water ____

Lights working ____

Clean interior ____

Motor oil ____

Horn working ____

Check service sticker ____

Monthly:

Soap & brush wash ____

Transmission oil ____

All Departments Zero Turn Mowers

DATE: _____

UNIT #: _____

ODOMETER/HOURS START OF DAY: _____

ODOMETER/HOURS END OF DAY: _____

Daily:

Tires (Front 60lbs & Rear 30lbs) _____ Motor oil _____

Hydraulic oil _____ Water _____

Grease _____

Wash after each use.

Monthly:

Steam Wash _____

Check oil service tag (hours) _____

Work Order

Date: _____

Unit #: _____

Mileage: _____

Hours: _____

Department Head: _____

Operator: _____

Description of problem:

Maintenance priority and cost estimate:

Date returned to Department: _____

Mechanic Supervisor Signature: _____